United States Court of Appeals

for the Second Circuit

APPENDIX

75-7386

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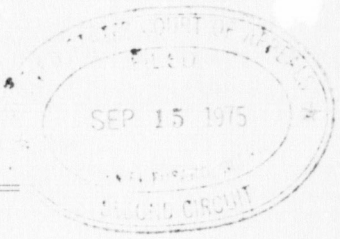
United States Court of Appeals

For the Second Circuit

75-7386

IN RE MASTER KEY ANTITRUST LITIGATION

(All Cases)



ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

JOINT APPENDIX
VOLUME TWO

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UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN RE:	:	M.D.L. DOCKET NO. 45
MASTER KEY ANTITRUST LITIGATION	:	ALL CASES

PLAINTIFFS' MEMORANDUM IN OPPOSITION TO
DEFENDANTS' MOTION TO DISMISS

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UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN RE:	:	M.D.L. DOCKET NO. 45
MASTER KEY ANTITRUST LITIGATION	:	ALL CASES

PLAINTIFFS' MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

The defendants have made this motion for summary judgment upon the contention that plaintiffs, as indirect purchasers, lack standing to sue for damages under the antitrust laws. This argument is premised upon the assumption that the conduct of the antitrust violation [illegible] complained. [1] To this end, plaintiffs have set forth a statement of facts which discusses the scope, purpose and price impact of defendants' illegal conspiracy. For purposes of this motion, of course, the allegations of the complaints regarding the conspiracy and its price impact must be taken as true.

Thereafter, the memorandum discusses the relevant legal principles that compel denial of the motion for summary judgment.

1/ Defendants have set forth a version of facts, which differs markedly from the evidence plaintiffs have uncovered. See, e.g., Memorandum of Defendants, p. 2.

STATEMENT OF FACTS

All defendants engaged in a conspiracy to fix prices for contract hardware and maintain inflated price levels by allocating customers and territories for masterkey jobs and by jointly enforcing such restrictions and price levels through their distributors. The defendants' conspiracy to establish prices in excess of competitive levels was particularly directed against public agencies and other builder-owners who required contract hardware for construction projects. 2/

The price-fixing conspiracy operated by horizontal agreement and coordination of [illegible] as demonstrated by meetings and discussions among them to set prices, make price changes, and maintain similar [illegible] of distributor sales policy to [illegible] masterkey systems by prohibiting such manufacturer's distributors from bidding on a masterkey job of another manufacturer or distributor, outside assigned territory, or where specifications were written by another distributor; and concerted action by defendants directly and through a trade association to enforce the industry-wide sales restrictions against distributors. These activities were contemporaneously conceded by defendants to be collusive and illegal, yet were knowingly pursued in deliberate violation of the law.

2/ During the period covered by the conspiracy, the defendants were the only companies in the United States that manufactured a full line of contract hardware.

The facts we will briefly set forth are based upon hard evidence which consists of admissions made in deposition testimony and contained in the correspondence and memoranda prepared by defendants' sales executives in the regular course of business.

1. Price information was exchanged among defendants; and price cutting policed through monthly meetings of representatives of defendants.

Defendants exchanged price information on a regular basis so that each would be "fully informed" of the list prices and "price changes as they were announced on a day to day basis." (Booth Dep. Exh. 2). This enabled defendants to price their competitive items at a uniform level. (Oaks Tr. 102; Witt Tr. ; Yale Tr. 149). There was an understanding that defendants would keep their prices in line with one another. For this purpose, defendants met to discuss the price advances on contract hardware items. (Booth D.p. Exh. 15). As a result of this conspiratorial conduct, defendants "similarly" increased prices for contract items at intervals during the conspiratorial period. (Yale Dep. Exh. 39; Oaks Tr. 102; Witt Tr.).

The defendants policed the pricing of contract hardware and effectively controlled price-cutting of distributors through monthly meetings attended by representatives of Eaton (Corbin and Russwin), Sargent, Ilco and Yale.[3/] These meetings

3/ The regular participants were Leo Pantas and Fred Dunning (Yale & Towne); Bryer Duff, Herman Giese and Forbes Sargent

were held at the Yale Club in New York under the auspices of the Builders Hardware Manufacturers Association (BHMA). L. Curtis Booth, former vice president of Corbin, testified to the purposes of these meetings as follows:

"Q Did you discuss general price levels for hardware, finished hardware?

A Not as such. We always would receive at our plants reports of prices on specific buildings coming in from all over the country to us. And as we would chart those it could develop a pattern showing that in one section of the country or another somebody was perhaps not quoting up to their full published prices.

If we saw a pattern like that developing, yes, we would [illegible] from the price book in a certain area, and try to get them to get back in the price book." (Tr. 14-15)

"Q [illegible] of other manufacturers' literature?

A Well, to the extent that I have mentioned before as a development to show showing that one or the other of us [illegible] prices for an area. We tried to take them to task for it to get it straightened out.

* * *

A [E]ach of our competitors had our price book and we had theirs.

Q And whenever there was a change in the prices in your price book you would inform your competitor?

A Yes, the changes would go to them." (Tr. 18)

(Sargent); John Meyer and George Wheatley (Ilco); William Ziegenhein, James Parker and L. Curtis Booth (Emhart). (Booth Tr. 17; Pantas Tr. 23-24).

This testimony is corroborated by documentary evidence. For instance, in a letter dated March 18, 1965, McCulloch, general sales manager (later vice president - sales) of Russwin, criticized the southern sales manager for cutting prices "on a couple of jobs where we had agreed here in New Britain for certain political reasons not to cut prices." (Yale Dep. Exh. 25). In another memorandum, McCulloch requested W. J. Ziegenhain, executive vice-president of Eshart, to talk to Dryer Dull, the vice-president of Sargent, and "find out if they would make sure that Fenestra [a Sargent customer] in selling the Sargent hardware to sell it above their book price. For if they're not, this then will cause Coco [an Eshart customer] possibly to sell our hardware under our book price and then you know we don't want in trouble." (Yale Dep. Exhs. 27).

2. An "industry policy" was established by defendants to eliminate competition on mastership jobs.

Correspondence and internal corporate memoranda prepared during the conspiracy repeatedly refer to the "industry policy" against bidding on another manufacturer's mastership system. (McCulloch Dep. Feb. 21; Meturne Dep. Exh. 9). The defendants secured adherence of distributors to this policy or put them out of business. (E.g., McCulloch Dep. Exh. 32; Lichtenfels Dep. Exhs. 1-9; Quedenfeld Dep. Exhs. 1-5; Yale Dep. Exhs. 3, 20 and 34; Gray Dep. Exh. 40). The sales manuals of Russwin and Corbin express this general "industry policy":

> "over the long pull the deliberate breaking of any manufacturer's key system by any dealer is not a sound policy. Every manufacturer and every dealer has the same privilege and if every one pursued this policy, master key systems as such would have no value to the dealer or to us as manufacturers." (Lichtenfels Dep. Exh. 34-B)

The defendants adhered to this policy even though an owner's specifications did not require the continuation of a masterkey system. In such a situation, McCulloch (Russwin) advised Carl Daum n, Corbin's general sales manager, that he would "rather lose the job to Y & T [Yale & Towne] than to be instigator of breaking key system." (McCulloch Dep. Exh. 34).

The defendants assigned distributors to exclusive sales territories and restricted the dealers' bidding outside their own territories or from one another ("dealer-to-dealer") contracts hardware to other distributors. (O'Neill Dep. Exh. 9; Oaks Dep. Exh. 1; Thompson Dep. Exh. 10; Hartlieb Dep. Exhs. 8, 9 and 10; Quednfeld Dep. Exhs. 6, 7 and 8). This gave defendants effective control of bidding even though [illegible] in each particular territory, and thus supplemented the prohibition against breaking existing masterkey systems. 4/

4/ The keying records that defendants maintained at their factories enabled them to stop or "flag" orders for contract hardware to be used on a masterkey job assigned to a particular distributor.

3. Defendants jointly enforced the restrictions against distributors bidding on another manufacturer's masterkey job.

Sales executives of the defendants communicated directly with one another to report price-cutting by distributors or infringement upon "protected" work. In response to such complaints defendants took concerted action to restrain the offending distributor or prevent further disruption. Depending upon the degree of discipline needed, defendants would "persuade" the distributor to stay in line, force him to compensate the protected distributor for the job taken, refuse to fill his orders, threaten to terminate him and actually terminate him as a distributor. Enforcement involved the cooperation of all defendants.

The several enforcement techniques discussed in this section leave no doubt that defendants engaged in a nation-wide horizontal conspiracy.

a) The Early Masterkey Enforcement

By letter of May 11, 1965 to Rhynedance (Sargent), Standard Equipment & Supply Corporation (a Sargent distributor) complained about competition from a Russwin distributor on two elementary schools in Illinois and stated:

> "We hope that you can stop any leaks that may exist in the raiding of Masterkey systems."
> (McCulloch Dep. Exh. 51-A)

Copies of this letter were directed to Eli Yale and Bryer Duff, the highest sales executives at Sargent. Yale sent a copy of

the letter to McCulloch (Russwin) with the notation: "Ed, Can you find out anything on this? Eli" (McCulloch Dep. Exh. 51-A). Shortly thereafter, McCulloch complied by writing to William Meher, Russwin's Chicago area manager, with a "Blind Copy to: Mr. Eli Yale," advising him to prevent the Russwin distributor from competing on the Sargent jobs:

> "I have heard through the grapevine that it is alleged that Edward Hines Lumber Company either is breaking a Sargent master key or in some manner is furnishing Sargent locks and closers on two schools, known as the Richton Square School at Richton, Illinois and the Illinois School at Park Forest, Illinois.
>
> You know our very definite feeling about the breaking of master key systems no matter whose master key system is involved. Without indicating to our dealer that we are playing detective, I would like to have you investigate these two jobs and see what you can find out about them and advise me." (McCulloch Dep. Exh. 51-B)

Sargent's internal reaction to this incident throws additional light on the nature of the conspiracy. Rhynedance forwarded Standard Equipment's complaint to the order department with instructions not to sell the hardware to any other firm. (Yale Dep. Exh. 19). Rhynedance then advised Standard Equipment that:

> "[I]f they attempt to break the masterkey, then I would say that they are in violation of the Code of Ethics of the American Society [of Architectural Hardware Consultants] and could be brought before the Ethical Practices Committee in this regard ... We had a case recently where a Russwin firm gave an order to one of our distributors who deliberately falsified the order and sent it to us ... The upshot of it was then ... we cut off the distributor ...." (Yale Dep. Exh. 20) (emphasis added)

b) The Erlanger Hospital incident

This incident arose from a complaint by Crissman Hardware Co., a Russwin distributor, that a Sargent dealer had bid upon hardware for the Erlanger Hospital in Chatanooga, Tennessee. Crissman requested McCulloch to get Sargent not to furnish hardware to its distributor. (Lichtenfels Dep. Exh. 23). McCulloch responded guardedly to Crissman in a letter dated March 17, 1961:

> "As far as saying anything to Sargent about breaking a master key ... in view of the present government case against the electrical companies, we are not too happy about discussing things like this with other manufacturers so that no one should get the idea that there is any collusive action between the hardware manufacturers." (Lichtenfels Dep. Exh. 24)

Nonetheless, McCulloch had contacted Sargent. On the same date, March 17, 1961, he telegraphed Russwin's southern sales manager that:

> "Sargent have advised dealer that they will not accept order for locks less cylinders or for locks to be used if our system stays in ... " (Lichtenfels Dep. Exh. 25)

In a subsequent intra-company memorandum, McCulloch noted:

> "Erlanger Hospital -- Chatanooga, Tenn.
>
> I talked to Duff [Bryer Duff of Sargent] previously on this and he agreed to stop his agent ... "
> (Lichtenfels Dep. Exh. 27)

c) The Sonar Station incident

Upon the complaint of a Russwin distributor, McCulloch wrote to Russwin's Florida salesman:

> "I have your letter of April 24th regarding the accusations levelled by Taylor & Cotton against Sargent & Company account at Sarasota. This has been taken up with the Vice President of Sargent and I am sure you will find this type of activity will cease.
>
> However, in taking the matter up with the Vice President of Sargent, he brought out the fact that Taylor & Cotton had done the same thing apparently on a Sonar Station somewhere below Miami to an existing Sargent masterkey. Is this a case of ... 'the pot calling the kettle black?'" (Lichtenfels Dep. Exh. 24) (emphasis added)

In response to McCulloch's letter, the salesman explained that the Russwin distributor had not tried to take the job, but had [illegible] just to keep the general contractor happy. Nonetheless the salesman "pointed out the dangers of this sort of thing" to the Russwin distributor and "convinced them that their actions look bad even if there was no intent to cause trouble." McCulloch directed this memorandum to Ziegenhein (Emhart) with a reminder:

> "Bill -- B. Duff called you on this some time back. E.H.M." (Yale Dep. Exh. 24)

d) The Rosner Hardware incident

On February 25, 1964, Earl Materne, general sales manager of Ilco advised Sam Crissman, Ilco's vice-president, that Rosner Hardware, a newly appointed Corbin account, had caused problems for Abe Deutscher, Ilco's distributor. Materne noted that Deutscher had suggested that George Wheatley, contract hardware manager of Ilco, should contact Emhart "to get Rosner to stop upsetting the market by quoting bids at book price." Materne seconded the suggestion in his handwriting on the face of the memorandum:

> "G.E.W. [George Wheatley] should call Andy [Emhart] and tell them that if they allow this situation that Deutsch will fight and we will have to back him. This will drop the price in the N.Y. area and could spread to the rest of the country."

Materne's additional handwritten notation on record memorandum given Ilco by Emhart that Rosner was not allowed to sell contract hardware items:

> "3/10 -- American Hardware claim not to be selling Rosner-Gluckman contract items and will not do so until they set up with proper personnel."
>
> "American Hardware claim not set up as contract account - Claim to be selling at a price and they are working on 5% differential on full case quantity." (Materne Dep. Exh. 14; Materne Tr. 66-67)

4. Defendants secured enforcement of their restrictive industry-wide sales policies through the American Society of Architectural Hardware Consultants.

The hardware industry's trade associations were used by defendants as an effective means to disseminate and enforce their conspiratorial sales policies.

Initially defendants sought to have the National Builders Hardware Association (NBHA) adopt a "code of ethics" that manufacturers would not "intrude upon other members' masterkey systems." When the NBHA's general counsel advised that such agreement among manufacturers would be illegal (Booth Dep. Exh. 10), defendants sought to "circumvent" this legal obstacle "by placing the matter of masterkeying ethics in the lap of the [American] Society of Architectural Hardware Consultants]. Then it would become a part of ethics among individual Society members." (Booth Dep. Exh. 9). 5/

Shortly thereafter, in 1959, the ASAHC adopted a so-called "Code of Ethics" against "Breaking a Masterkeying System" and published its provisions in the trade association journal. (AS-131-132; 813; 816-817; 856). 6/ The ASAHC defined breaking a masterkey system as:

> "the act of specifying or furnishing a lock system other than that in existence, when the owner and architect desire to continue the existing system,

---

5/ The defendants' sales executives held all important positions of authority in ASAHC. Defendants were thus able to control ASAHC's activities and formulate its restrictions against competition.

6/ The code numbers refer to documents secured from the files

> or the furnishing of locks and cylinders keyed by other than the original manufacturer at his plant, where permanent keying records are maintained for the owner's protection." (AS-798)

The measures that defendants took to enforce these "ethical" restrictions leaves no doubt this language was meant and applied to prevent any distributor from trading upon an existing masterkey system. In this regard, McCulloch stated to a joint meeting of the ASMHC and Builders Hardware Manufacturers Association (BHMA) on April 30, 1965:

> "The system is 'broken' when a low bid from a competitor forces the owner through economic pressure to establish a new system." (AS-1160)

The "Code of Ethics" was vigorously enforced. The by-laws of ASMHC required all members to adhere to the "Code of Ethics." The ASMHC established a procedure for the presentation of complaints that a distributor or salesman had offered to sell hardware to a masterkey system of another manufacturer. An ethical practices committee, comprised of representatives from different companies, would conduct an investigation. If found "guilty" of engaging in such competition, distributors were suspended or expelled from ASMHC, and terminated as contract hardware accounts by defendants. 7/

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of defendants or others, but not produced in deposition and file. "AS" are documents from ASMHC files; "E" are Emhart documents; and "S" are Sargent documents.

7/ Bauman Dep. Exhs. 45, 57, 58, 60, 61, 62-BB, 62-CC and 62-DD. The last three documents were found in the files of the ASMHC. They report that Yale had terminated an "unethical" distributor.

As a matter of policy, the defendants urged, and even pressured, their sales personnel and distributors to join the ASAHC. (Booth Dep. Exh. 1; Parsons Dep. Exhs. 1 and 2; Reilly Tr. 25; Quedenfeld Tr. 35-36; S-1291).

Moreover, defendants sought to restrict the sale of contract hardware only to distributors who employed a member of ASAHC. Meetings of representatives of all defendants and many distributors were held to discuss such an arrangement. (Yale Dep. Exh. 26). Such a meeting of defendants (including Larry Talbot of Yale) was held in Durham, North Carolina, in conjunction with a local chapter meeting of ASAHC where the distributors "were asking the manufacturers here not to add any distributors or sell to any new distributors that didn't have a qualified AHC on their staff." (Yale Tr. 199-200).

The initiation of ASAHC and the active support of its restrictive policies by the defendants is but another example of agreement and combination among all defendants in the price-fixing conspiracy.

5. The industry-wide restrictive sales policies were known to be unlawful, yet were deliberately pursued.

The industry-wide restriction of competition on masterkey jobs, maintenance of inflated prices through customer and job allocations, and enforcement of these policies were intentional violations of the antitrust laws. Defendants acknowledged this in contemporaneous memoranda which plaintiffs have discovered.

We have previously noted a few instances where defendants recognized the illegality of their activity but nevertheless continued it. E.g., McCulloch's warning that the recent electrical conspiracy case makes us "not too happy about discussing things like this [enforcement against distributors] with other manufacturers." (Lichtenfels Dep. Exh. 24), and adoption of the euphemistic "Code of Ethics" by the ASAHC rather than NEMA to achieve enforcement of restrictive sales policies. (Booth Dep. Exhs. 9 and 10).

Other documents reveal how defendants deliberately ignored the antitrust laws. Correspondence of McCulloch (Emhart), a key figure in the policing of the industry-wide price-fixing, job allocation and restrictive sales policies, tells part of the story of illegal industry conduct. McCulloch wrote in 1961 and 1963:

> "Everyone understands our sales policy, I am sure, regarding continuation of mastership systems that have been established by dealers other than themselves. We, of course, can't enforce this legally because of our friend, Kennedy. However, our policy is that dealers live and let live as far as existing key systems are concerned." (McCulloch Dep. Exh. 47)

> "Legally, we can't force [redacted] dealer not to bid another man's key system. We have had this out with our key [redacted]. They say [redacted] on this policy and calls it collusion and monopoly, but our policy is based on dealers having good will towards each other and trying to work together as I know you do." (McCulloch Dep. Exh. 48)

> "Basically, our policy is a moral policy and on that, I'm afraid, Uncle Sam wouldn't uphold us in a court of law about restriction of territories. This word 'franchise' that we all use is fine sounding but unless we really mean it deep inside us it doesn't mean a

thing. This goes for Lockwood as well as anyone else. What we are trying to do and I'm sure Lockwood is, too, is to get people to think right, live together, and work together." (McCulloch Dep. Exh. 49)

The defendants endeavored to conceal their illegal activity by not putting anything in writing. McCulloch advised his sales personnel that the prohibition against bidding on another dealer's masterkey job was "pretty collusive" so "we don't believe we can put this into writing. If we say it, then that's one thing but in writing of course, it's another." (McCulloch Dep. Exh. 50). On another occasion McCulloch advised that allocation of masterkeyed jobs "should all be done by telephone or word-of-mouth in a visit." (E-7301). Significantly, McCulloch is the individual who took the Fifth Amendment for two days of deposition hearings in these proceedings. But McCulloch did not claim self-incrimination until after a day and a half of self-serving testimony and convenient failures to recall the obvious, when he was confronted with his letters and memoranda. 8/

Tom O'Neill, a successor to McCulloch as general sales manager, expressed the same apprehension with regard to allocation of masterkeyed jobs by the manufacturers:

8/ McCulloch had no hesitation about testifying for Emhart in two cases brought by distributors who were terminated for violations of Emhart's illegal sales policy. Gardner Hardware Co. v. Emhart Corp., 4-66 Civ. 63 (D. Minn.); Witt v. Emhart Corp., 68 L 9314 (Circuit Court, Cook County, Illinois).

> "Generally speaking it is not well to put this sort of thing in writing no matter how it is worded ... Let's watch out for the use of the word 'agree' when there are more than two parties involved ... A very dangerous word. When it comes to MKS we don't ask for their agreement to our policy. We set it and we enforce it with or without agreement." (O'Neill Dep. Exh. 13)

Similarly, Rhynedance (Sargent) cautioned with respect to the refusal to fill orders of a distributor:

> "Do not put this in writing, but handle this on a verbal basis ... " (Rhynedance Dep. Exh. 11)

Dave Oaks, a former salesman for both Dybart and Sargent, confirmed that defendants were careful to enforce sales policy against distributors verbally because they "understood it to be illegal." (Oaks Tr. 32).

The deliberate nature of defendants' conduct apparently has continued through the pretrial discovery period. At an appropriate time we intend to call to the Court's and jury's attention the suppression of evidence by defendants.[9/] Let us now merely quote excerpts from the deposition testimony of David Oaks on March 26, 1973:

> "Q Prior to this deposition have you had any conversations with any representatives of the defendants, that is, Ruswin, Corbin, Yale, Sargent or Lockwood?
>
> A Yes.

9/ Yale & Towne responded to plaintiffs' request for documents by advising that it had destroyed most of its documents prepared during the conspiratorial period.

Q With whom?

A With Mr. Fred Holfelder [sales manager] of Russwin.

Q When did such conversation occur, or conversations?

A After I received the subpoena in the mail.

Q Would you describe the circumstances leading up to your conversation with Mr. Holfelder ...

A Mr. Holfelder contacted me and indicated that Mr. Ed Cooney or Mr. Rick Reynolds [counsel for Emhart] may be calling me at my office to find out if I am going to be friend or foe ....

Q What was your response to Mr. Holfelder?

A I told Mr. Holfelder, you know, that I was almost embarrassed by the question because I had no alternative but to tell the truth.

Q Did you state whether you were willing to talk to Mr. Reynolds or Mr. Cooney?

A Yes. I gave Mr. Holfelder my home phone number and indicated that they could contact me at home.

Q Did you have any subsequent conversation with Mr. Holfelder?

A Yes ... I indicated to Fred that I had not heard from Rick Reynolds or Ed Cooney and I was kind of worried about the deposition.

Q What did Mr. Holfelder state to you?

A He mentioned something to the effect that Mr. Reynolds was on vacation, or Mr. Cooney, I can't recall, and we just talked in general about the type of questions that might be asked, because apparently Mr. Holfelder had been deposed in a similar matter, or in this matter, I don't know.

Q What did Mr. Holfelder tell you with respect to the type of questions that would be asked?

A Well, I indicated that they would ask very specific questions, and unless I remembered specifically incidents or things that might have happened five or six or ten years ago, it is very difficult to remember those things.

I indicated to him that my memory is quite vivid of every instance that I have stated here.

Q Did Mr. Holfelder pose an example of the type of question you would be asked?

A Yes. He said the type of question they might ask of you would be, 'Have you ever threatened to terminate a distributor for bootlegging or the breaking of a master key system?', and he also indicated in the same sentence, he says, 'You know, both you and I know that we have never done that', and we both chuckled.

I indicated to Mr. Holfelder that he was talking to Dave Oaks, not some clown, that we have both done it and we both know it.

Q Did Mr. Holfelder ask whether any materials had been subpoenaed from you?

A Yes.

Q What was the substance of the conversation in that respect?

A Basically, the sequence of events was that I indicated to Mr. Holfelder that, according to the subpoena, I was required to bring documents pertinent to master key systems and similar type documents, and Mr. Holfelder indicated that it might be to my best interest if I could lose some documents.

MR. BATES: May I have that answer again, please? I did not hear it.

BY THE WITNESS:

A He said that it might be to my best interest if I could not have documents left in my files.

BY MR. FARRELL:

Q Did Mr. Holfelder advise you that no one could really be expected to remember events that had occurred five or ten years ago?

A Yes.

* * *

Q Did you advise Mr. Holfelder that you intended to tell the truth at your deposition?

A Yes.

Q Were you subsequently contacted by either Mr. Reynolds or Mr. Cooney?

A No, sir." (Tr. 114-118)

The defendants knew their price-fixing, restrictive sales policies, and concerted enforcement practices were illegal -- yet they pursued such activities with conscious efforts at concealment. Indeed, the not so subtle references to "our friend Kennedy" (then Attorney General), "Uncle Sam" and the "electrical companies" case reveal deliberate violations of the law. The substantial damages to public agencies in the country which this unlawful system imposed must be redressed and defendants forced to return their ill-gotten gains.

6. The defendants' industry-wide policy of allocating master key jobs was intended and operated to increase prices of contract hardware purchased by public agencies and other owners of buildings.

The agreement among defendants to keep distributors from bidding on other manufacturers' masterkey jobs (or bootlegging contract hardware) was designed to maintain prices in excess of competitive levels. It enabled both manufacturers and distributors to "gouge" the plaintiffs, against whom the industry-wide policy was directed. (Oaks Tr. 40; Rhyne dance Dep. Exh 18). Witness Oaks explained the reason for the illegal agreements not to break masterkey systems:

"A Well, on a master key job, number 1, the manufacturer would not have to give a price concession, and number 2, it gave the distributor an opportunity to basically put any markup on the job he wanted. It was a non-competitive job." (Tr. 36-37)

* * *

"A ... on a master key system the manufacturer would not have to cut the price, and looking at it from the distributor's point of view, the distributor could gouge the job; he could put as much markup on it as he wanted." (Tr. 39-40)

* * *

"A The master key system was the plum of the industry." (Tr. 50) (See also Bair Dep. Exh. 26)

The defendants' identical sales policies and the "Code of Ethics" promulgated by the ASAHC manifested the industry-wide understanding that price competition "can become most unpleasant for all of us and no one will make any money." (Putnam Dep. Exh. 19). Russwin insisted that its distributors not interfere with an existing masterkey job:

"This not only makes good business sense but it is one of the main points of ethics of our industry and the A.S.A.H.C. For if the continuation of master key systems isn't respected by all, this would break down the economics and frankly, the making of reasonable profits for our industry ... " (Maher Dep. Exh. 6) (emphasis added)

The Sargent sales executives likewise acknowledged that the industry's illegal understandings resulted in higher non-competitive prices:

> "In this regard we cannot tolerate a Sargent distributor bidding a job specifically laid down to another manufacturer's existing masterkey, any more than we can tolerate another manufacturer's distributor bidding on existing Sargent masterkey. Such unethical bidding not only results in a depressed selling market but produces a retaliatory market having a far reaching effect." (Gray Dep. Exh. 51)

The conspiracy (and its economic motive) embraced all defendants. McCulloch cautioned his distributors that interference with a masterkeyed job "just isn't right whether it's Russell & Erwin, Corbin, Sargent, Yale, etc." (Bauman Dep. Exh. 19).

In telling a distributor to back off [illegible] Corbin hardware, McCulloch stated the rationale for the conspiracy: a dealer is "entitled" to [illegible] having outside [illegible]. You have [illegible] infringe on jobs allocated to another manufacturer. It can be a two edged sword and can be turned on you in the same manner by your Corbin competitor or let's broaden it even further, Yale, Lockwood and Sargent ... " (Bauman Dep. Exh. 18).

The defendants repeatedly advised their distributors against competing on jobs reserved for other manufacturers, pointing out that the restrictions operated to everyone's financial benefit and that "the shoe can be on the other foot someday." (E-8359). This "industry policy" was supplemented by more specific illegal joint action. For example, McCulloch instructed a distributor in Dallas, Texas, to reach "an understanding such as they have in Los Angeles" with dealers of other manufacturers in order to maintain "net prices". As part

of this "understanding" McCulloch told the dealer that he had "to throw the competition a fish now and then." (McCulloch Dep. Exh. 12).

The defendants sought to have distributors police each other through the local trade association because, in McCulloch's words, "if we embark on a deliberate policy of breaking Master Key Systems ... the ones that will lose, will be the distributors; actually everyone will because their profits will be greatly lowered." (E-10,989).

But there were occasions when distributors "cheated" and obtained jobs at prices for lower than the "loaded" figures quoted by the protected dealers. (Lichtenfels Dep. Exhs. 11 and 12; Wyndlance Dep. Exhs. 17-A to 17-B and 20-A to 20-C; Daumm Dep. Exhs. 32, 33, 72, 73-A to 73-B; Gray Dep. Exhs. 49-A to 49-B and Quedenfeld Dep. Exh. 23). The defendants, of course, acted to cut off the shipment of hardware to these mavericks. 10/

Defendants maintained these inflated and non-competitive prices despite the statutory requirements for competitive bids on public works by arranging to have distributors submit so-called "complimentary" bids, or collusive bids

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10/ As a matter of general sales policy, defendants sell contract hardware only through their own established or franchised contract hardware distributors. These distributors ordinarily do not maintain an inventory of the hardware for contract hardware jobs, but instead order the necessary materials for each particular job from the manufacturer. Since the distributors sell contract hardware as a package, control of the masterkey system protects the excessive prices for all contract hardware required on a job.

at prices higher than the protected distributor. These bids were arranged as "the means of having the owner and the architect believe they were getting competitive bids from two sources." (McCulloch Dep. Exh. 38). Several incidents recorded in the documents obtained from defendants illustrate this illegal practice:

a) In March 1966, Sargent's eastern sales manager got four New York distributors to "coordinate" on a job at the University of Connecticut, which was in Jack O'Keefe's exclusive sales area, by bidding "over $3,500." (Thompson Dep. Exhs. 25 and 27). 11/

b) By memorandum dated November 11, 1966, William Healy, Sargent's midwest sales manager, reported to D. A. Wells, the vice president of sales, that:

> "When the federal bldg [in Chicago] started to put out bids about a year ago I arranged to have Ken Lee's quotations complimented by Dave Oaks & Great Lakes ... After all Ken Lee has put a great deal of time and money into the federal bldg. job and the continuing business should be available to them -- at a profit." (Rhyneldance Dep. Exh. 12)

With reference to this incident, Dave Oaks testified as follows:

> "A A complimentary bid is a bid that a distributor would submit which would be higher than the distributor whom the order was meant to go to. It is a rigged bid.

11/ Given the economic protection he received from defendants, it is no surprise that Jack O'Keefe (an unnamed co-conspirator) has filed an affidavit in support of defendants' motion for summary judgment.

Q As a Sargent distributor were you ever requested to submit a complimentary bid?

A Yes ... By Bill Healy of Sargent." (Tr. 73)

"Q On what jobs did Mr. Healy ask you to submit a complimentary bid?

A Abbott Laboratories in North Chicago, replacement materials for the Federal Building -- " (Tr. 74)

* * *

The Illinois Tollway Commission, replacement materials. There were a couple of others, but I can't recall exactly what jobs they were on."

"Q What, exactly, did Mr. Healy say to you when he asked you to submit complimentary bids?

A He said that Hem-Lee's price was such-and-such and to bid higher than Hem-Lee's price." (Tr. 75)

c) Russwin assigned the West and Baptist territory in Birmingham, Alabama, to Wagstaff Hardware Company. Consequently, Russwin arranged for distributors outside the area to submit collusive bids of $51,349.00 and $51,345.00 to general contractors in Louisiana and Texas. (McCulloch Dep. Exhs. 36-A and 36-B).

d) Arrangements for the submission of collusive bids was an industry-wide practice among all defendants.

"Q Did you on any occasion discuss the giving of complimentary bids with salesmen from other manufacturers?

A Yes. We were all doing it." (Oaks Tr. 81)

ARGUMENT

I. THE WEIGHT OF AUTHORITY SUPPORTS THE RIGHT OF INDIRECT PURCHASERS TO RECOVER PROVABLE DAMAGES

The federal courts have long recognized the standing of public agencies and other indirect purchasers to sue under Section 4 of the Clayton Act and to recover damages for antitrust violations. Moreover, the Rule 23 class action device has been consistently upheld as an effective means for small public agencies to secure redress for illegal overcharges. The recent cases relied upon by defendants distort the holding in Hanover Shoe, Inc. v. United Shoe Machinery Corp., 392 U.S. 481 (1968), and turn the Supreme Court's support for private treble damage actions into a weapon that threatens effective private antitrust enforcement and denies the statutory remedy to the persons actually injured.

A. The plain words of Section 4 of the Clayton Act confer standing upon plaintiffs to sue for damages.

Defendants contend that plaintiffs lack standing to sue as a matter of law. This issue must first be considered in terms of the statute which creates a private right of action for antitrust violations. Section 4 of the Clayton Act, 15 U.S.C. §15, provides:

> "Any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor ... and shall recover threefold the damages by him sustained, and the cost of the suit, including a reasonable attorney's fee."

This language squarely covers overcharges caused by the illegal price-fixing, collusive bidding, and allocation of jobs involved in this case. The statute makes no distinction between damages suffered by direct or indirect purchasers. If "any person" suffers injury in the form of higher prices as a consequence of antitrust violations, he may sue the conspirators for treble damages.

It is well settled that standing to sue does not turn on the relationship of the claimant to the price-fixer. As stressed by the Supreme Court in Mandeville Island Farms, Inc. v. American Crystal Sugar Co., 334 U.S. 219, 236 (1948):

> "The statute does not confine its protection to consumers, or to purchasers, or to competitors, or to sellers ... The Act is comprehensive in its terms and coverage, protecting all who are made victims of the forbidden practices by whatever they may be perpetrated."

The courts of appeals in almost every circuit have rejected the argument that there must be privity of contract between plaintiff and defendant in antitrust cases. 12/ The decision in South Carolina Council of Milk Producers, Inc. v. Newton, 360 F.2d 414, 417-419 (4th Cir.), cert. denied, 385 U.S. 934 (1966), succinctly expresses this doctrine:

12/ E.g., Vines v. General Outdoor Advertising Co., 171 F.2d 467 (2d Cir. 1948); Philip A. Conrad & Co. v. Pool Plan, Inc., 380 F.2d 484, 487 (5th Cir. 1967); Perkins Goods Corp. v. Richfield Oil Corp., 221 F.2d 353 (9th Cir. 1955).

> "Section 4 does not in its terms limit relief to persons in a direct contractual or competitive status with the persons whose conduct allegedly violates the proscriptions of the Sherman Act ... [T]he cause of action is not dependent upon a relationship, contractual or otherwise, between the claimant and the offender, so long as the injury is a proximate result of the misdoing."

The language of Mandeville Island Farms that Section 4 protects "all who are made victims of the forbidden practice" emphasizes the statute's breadth of coverage. The record shows that plaintiffs in these actions were the intended and actual "victims" of defendants' conspiracy to fix and maintain prices of contract hardware. As stressed in "Standing and Ultimate - Consumer Standing: The Misuse of the Passing Doctrine," 72 Colum. L. Rev. 384, 413 (1972):

> "[I]t is a curious result to refuse to allow a [contract] manufacturer, who actually produces the good with the intention that it will ultimately be distributed [without reverse profit accounting], cannot foresee that his illegal price-fixing conduct will affect parties remote from his immediate business contacts."

B. Prior Illinois decisions permitted recovery of damages by indirect purchasers in factual settings identical to this case.

Prior to the decision in Illinois Brick, the federal courts consistently ruled that indirect purchasers had standing to sue and could recover damages for conspiratorial price overcharges passed through contractors and other middlemen. These principles developed at the same time that courts were holding that defendants could not assert the passing-on defense

to escape liability to direct purchasers. For instance, Judge Boldt held in State of Washington v. General Electric Co., 246 F. Supp. 960, 962 (W.D. Wash. 1965):

> "[T]his Court is unwilling to deny plaintiff its right to sue merely because it purchased the equipment through a third party rather than directly from the manufacturer."

Just a year earlier, Judge Boldt rejected the "passing-on defense" as a device urged by defendants to defeat damage claims for price-fixing in Public Utility District No. 1 of Chelan County Washington v. General Electric Co., 230 F. Supp. 744 (W.D. Wash. 1964).

The decision in Armco Steel Corp. v. North Dakota, 376 F.2d 200 (8th Cir. 1967), affirmed the damages awarded by the jury to North Dakota for the identical kind of indirect purchases involved in this case. North Dakota had brought suit against Armco for conspiring with three local fabricators to fix the prices of corrugated metal culverts. The culverts were sold to contractors who installed them in state highway-construction projects. The jury found that North Dakota had sustained actual damages of $256,355, as a result of the price-fixing conspiracy. Because North Dakota was an indirect purchaser, Armco "argued that the use of the conspiratorial list prices in quotation to contractors for use as an element in bidding on highway-construction projects could not occasion any injury to the State, but only to the contractors." The Eighth Circuit unanimously rejected this contention as unrealistic, stressing that the evidence showed that North

Dakota, the ultimate purchaser, had in fact suffered damages from the establishment of non-competitive prices on the metal culverts purchased through contractors.

The Armco Steel holding applies with equal force to the injury and damages that plaintiffs have suffered by reason of the conspiracy among defendants (and their distributors) to fix excessive prices for contract hardware and to maintain prices at an artificially high level by the allocation of customers and jobs. The hardware dealers gave inflated quotes to the contractors; the contractors used these quotations as a known material cost in computing their bids; and plaintiffs were directly injured by paying this increased cost for contract hardware.[13/]

Armco Steel is part of an unbroken line of cases that uphold the right of indirect purchasers, especially public agencies, to recover damages for antitrust violations. Thus, Missouri v. Stupp Brothers Bridge & Iron Co., 248 F. Supp. 169, 170 (W.D. Mo. 1965), held that Missouri could recover damages for indirect purchases of structural steel. The evidence showed that Missouri did not purchase the steel from defendants. The structural steel "affected by [the] conspiracy was purchased by prime contractors and subcontractors for use in the construction of new steel bridges, which were in each

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13/ The bids reflect the increased cost of the contract hardware, plus the contractor's mark-up on such increase, thereby compounding the injury to plaintiffs.

instance themselves part of and integrated into a larger highway project." Relying upon the statutory language and its underlying policy, the court concluded in Stupp Brothers that it could "not read into Section 4 of the Clayton Act a requirement of privity" and that indirect purchasers should be entitled to sue for "whatever injury they may be able to prove." (243 F. Supp. at 174-175).

Only a year before Hanover Shoe, Chief Judge Pence held in State of Washington v. American Pipe & Construction Co., 274 F. Supp. 961, 962 (W.D. Wash. 1967) that Washington had standing to sue for injuries sustained "as a result of price fixing by the manufacturers of concrete & C steel conduit pipe." Just as in this case, Washington specified the type of pipe required, but purchased the pipe from a general contractor as part of the total project, rather than from the manufacturer:

> "General contractors in bidding for the right to perform a project, of course include a pipe quotation in the bid, and, if the successful bidder, independently purchased pipe and 'resold' it to plaintiffs as part of the completed job ... Normally the contractors would but incorporate defendant's quotations in their bids, and purchase the pipe only when awarded a contract." (274 F. Supp. at 963)

On these facts, American Pipe rejected the argument that the conspiracy spent itself on the contractors so that any injury to plaintiffs was "too inconsequential and remote to support a cause of action." (274 F. Supp. at 965).

Other decisions, even though rejecting the "passing-on defense" asserted by antitrust defendants, have explicitly

recognized that indirect purchasers have a cause of action for antitrust violations. Ohio Valley Electric Corp. v. General Electric Co., 244 F. Supp. 914, 951 (S.D.N.Y. 1965) (Feinberg, J.).

C. The Hanover Shoe decision cannot be interpreted to deprive public agencies and other indirect purchasers of their right to sue for antitrust damages.

The "passing-on defense" was rejected in Hanover Shoe, which held defendant could not attempt to show that plaintiff had "passed on" the inflated cost it incurred to lease machinery by raising prices of shoes it manufactured. The Supreme Court rejected the "passing-on defense" for two reasons: (i) recognition of the defense would reduce the deterrent effect of private antitrust enforcement since the individual buyers of shoes, as a practical matter, could not effectively assert their claims; and (ii) the consequent inquiry into profit and loss computations would unduly burden the plaintiff and complicate the litigation. These rationale manifest the strong policy that wrongdoers should be forced to answer for illegal overcharges, especially where the plaintiff may be the only means of private enforcement. As the Supreme Court stressed:

> "In addition, if buyers are subjected to the passing-on defense, those who buy from them would also have to meet the challenge that they passed on the higher price to their customers. These ultimate consumers, in today's case the buyers of single pairs of shoes, would have only a tiny stake in a lawsuit and little interest in attempting a class action. In consequence,

> those who violate the antitrust laws by price fixing or monopolizing would retain the fruits of their illegality because no one was available who would bring suit against them. Treble-damage actions, the importance of which the Court has many times emphasized, would be substantially reduced in effectiveness." (392 U.S. at 494)

Justice White's opinion reaffirmed the lower court decisions that had refused to allow defendants to interpose the pass-on defense. E.g., Atlantic City Electric Co. v. General Electric Co., 226 F. Supp. 59, 70-71 (S.D.N.Y.), aff'd on other grounds, 337 F.2d 844 (2d Cir. 1964); Ohio Valley Electric Corp. v. General Electric Co., 244 F. Supp. 914, 950-951 (S.D.N.Y. 1965).

1. Hanover Shoe did not change or limit the [illegible] recovery of [illegible] damages [illegible]

The holding in Hanover Shoe simply concerned the proper scope of the "pass-on defense," not the question whether indirect purchasers may bring suit to prove that they suffered injury by having to pay inflated prices. There is no indication in its opinion that the Supreme Court intended to disturb the contemporaneous decisions upholding the rights of indirect purchasers to recover for illegal overcharges.[14/]

14/ Arnco Sand Corp. v. South Dakota, 377 F.2d 206 (8th Cir. 1967); Minnesota v. [illegible] Mining & Iron Co., 246 F. Supp. 169, 174 (D. Minn. 1965); [illegible] v. American Pipe & Construction Co., 274 F. Supp. 961, 962 (W.D. Wash. 1967); State of Washington v. General Electric Co., 246 F. Supp 960, 962 (W.D. Wash. 1965).

Those decisions illustrate a sharp awareness that the use of the "passing-on defense" and the standing of indirect purchasers under the Clayton Act are completely different issues.

Authoritative decisions subsequent to Hanover Shoe refute the contention that the Supreme Court intended, by its silence, to announce the doctrine that only a purchaser in privity of contract with the price-fixing conspirators may seek legal redress for damages.

The recent decision in Hawaii v. Standard Oil Co., 405 U.S. 251, 266 (1972) rebuts any inference that Hanover Shoe was meant to bar recovery by indirect purchasers. The Supreme Court recognized that states may sue as class representatives to recover financial damages suffered by ultimate "consumers" due to antitrust violations. While it disallowed a parens patriae action for alleged harm to the general economy, the Supreme Court noted that a state could bring a Rule 23 "class action on behalf of some or all of its consumer citizens." The Court of Appeals for the District of Columbia has construed Hawaii v. Standard Oil Co. as authority in support of class actions against manufacturers by states representing individuals who purchased antibiotic drugs from retail drug stores. Illinois v. Bristol-Myers Co., CCH Trade Cases ¶74,262, at p. 93,252, n. 4 (D.C. Cir. 1972).

Moreover, in Association of Data Processing Service Organizations, Inc. v. Camp, 397 U.S. 150, 153 (1970) and Barlow v. Collins, 397 U.S. 159, 164 (1970), the Supreme Court held that those who are within the zone of interest to be protected or regulated by a statute having standing to sue for

damages resulting from its violation. 15/

2. The rationale of Hanover Shoe supports right of indirect purchasers to recover damages.

The need to encourage and strengthen private enforcement of the antitrust laws underlies Hanover Shoe and militates against twisting that decision to deny indirect purchasers their statutory right to sue for illegal overcharges. The Supreme Court has repeatedly sought to implement Congressional policy "that private antitrust litigation is one of the surest weapons for effective enforcement of the antitrust laws." Minnesota Mining & Mfg. Co. v. New Jersey Wood Finishing Co., 381 U.S. 311, 319 (1965). See also English Radio Corp. v. Hazeltine Research, Inc., 401 U.S. 321, 326 (1971); Perma Life Mufflers, Inc. v. International Parts Corp., 392 U.S. 134, 139 (1968) (refusal to recognize in pari delicto as a bar to an antitrust suit); Georgia v. Evans, 316 U.S. 159 (1942) (state held to be a "person" within meaning of Clayton Act).

To this end, the decision in Radovich v. National Football League, 352 U.S. 445, 454 (1957), cautions that courts

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15/ In the price discrimination context, the Supreme Court stressed that a plaintiff may recover damages "regardless of the 'level' in the chain of distribution on which the injury occurs ... If there is sufficient evidence in the record to support an inference of causation, the ultimate conclusion as to what the evidence proves is for the jury." Perkins v. Standard Oil Co., 395 U.S. 642, 648 (1969).

"should not add requirements to burden the private litigant beyond what is specifically set forth by Congress in [the antitrust] laws."

Giving proper recognition to this "result orientation" in favor of private antitrust actions, the Second Circuit has held rejection of the "passing-on defense" in Hanover Shoe to be perfectly consistent with recovery of damages by indirect purchasers. West Virginia v. Chas. Pfizer & Co. (Tetracycline), 314 F. Supp. 710 (S.D.N.Y. 1970), aff'd 440 F.2d 1079, 1087 (2d Cir.), cert. denied, 404 U.S. 871 (1971).

In Tetracycline, the settlement offer made by drug manufacturers, and approved by the trial court, provided for refunds of overcharges to all purchasers in the chain of distribution. Certain retailers and wholesalers, however, opposed allocation of any money to consumers on the ground that Hanover Shoe deprived indirect purchasers of legal standing to recover their damages.[16/] The District Court rejected this argument, and distinguished Hanover Shoe on its facts:

> "United charged Hanover more for shoe machinery than would have been charged except for the antitrust law violation. The machinery was then used in making shoes from Hanover designs, using all the necessary materials (leather, thread, cloth, etc.) and applying the labor and skills of the Hanover organization. The use of the machinery was by Hanover, which was in the

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16/ It was contended that retail prices of drugs may be influenced by factors unrelated to the prices fixed by the manufacturers.

> position of a consumer or end user of the machinery. The machinery was not resold, as were the antibiotics in suit." (314 F. Supp. at 746)

The District Court concluded that the ultimate consumer suffered the actual damage since the middlemen resold the antibiotics in the form obtained from the manufacturers, adding their mark-up to the artificially inflated cost.

The Second Circuit affirmed the settlement approval and easily reconciled recovery of overcharges by indirect purchasers with Hanover Shoe in the following language:

> "First, the passing-on doctrine is not here being used as a defense to permit the defendants to escape liability, but rather as an attempt to award damages, insofar as is possible, to those who ultimately paid higher prices as a result of the collusive pricing, and to avoid giving a windfall gain to those who may not have been injured. Secondly, to permit the use of the doctrine in the present circumstances will not act to limit or frustrate private treble-damage claims, but will, if anything, do the opposite. As Judge Feinberg noted in discussing this problem in Atlanta City Electric Co. v. General Electric Co., 226 F. Supp. 59, 70 (S.D.N.Y. 1964):
>
> > Were the consumers a proper party in these proceedings, it might be urged by defendants that the Court should equitably distribute the damages between the utilities and the consumers." (440 F.2d 1083)

3. Plaintiffs were the only persons actually damaged by paying the increased prices that resulted from defendants' conspiracy.

The denial of standing to indirect purchasers conflicts with the Clayton Act's raison d'etre -- to provide redress to "any" person injured by antitrust violations. As shown by the

facts of this case, plaintiffs were the persons most directly injured by the conspiratorial price-fixing, job allocation and bid rigging.[17/]

The defendants engaged in their illegal activities for the purpose of fixing and maintaining prices of contract hardware at artificially high levels. This conspiracy was aimed at the public agencies and other plaintiffs who purchased contract hardware for installation on buildings constructed during the period covered by the complaints. The record shows that the full illegal overcharges (and more) were imposed upon these plaintiffs. The fact that plaintiffs purchased the price-fixed hardware through contractors should not insulate defendants from liability for the intended consequences of their unlawful conduct. See "Hanrahan and Ultimate - Consumer Standing: The Misuse of the Hanover Doctrine," 72 Colum. L. Rev. at 414.

As related in the affidavits attached to this memorandum,[18/] the general contractor secures quotes from a distributor on the contract hardware specified by plaintiffs.

17/ The plaintiffs did purchase replacement hardware directly from distributors who were part of the illegal conspiracy among defendants. For purposes of the summary judgment motion, however, plaintiffs concede their claims for damages will involve purchases of contract hardware made through contractors.

18/ The plaintiffs have filed affidavits from the following general contractors: James McHugh of James McHugh Construction Co.; Richard Foley of Felmley Dickerson Construction Co.; Sumner M. Sollitt of Sumner Sollitt Construction Co.; and Robert Luedking of Gust K. Newberg Construction Co.

Based on the lowest quotation he receives, the contractor includes the full cost of the contract hardware in his bid as a known material cost. The contractor totals his material costs and adds a percentage for overhead and profit when he calculates his bid to the owner. Consequently, if the distributor were to charge a lower price for the hardware, the contractor's bid to the owner would be reduced by the same amount (as well as the percentage mark-up applied to that amount). The general contractor is nothing more than a conduit between defendants and plaintiffs.[19/] The general contractor absorbs none of the illegal overcharges but recovers it completely (and more) from plaintiffs.

We have filed with this memorandum affidavits from two leading economists in the antitrust field, Peter Asch and Willard F. Mueller. These affidavits furnish conclusive economic support for our position that plaintiffs were injured and damaged by the illegal overcharges.

As this case illustrates, a rule of law denying standing to indirect purchasers would seriously weaken private enforcement of the antitrust laws, contrary to the thrust of Hanover Shoe. Indirect purchasers, such as the public agencies

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19/ In this connection, defendants' sales personnel and distributors deal directly with the owners and architects, on a regular basis, to promote their contract hardware and assist in drafting plans and specifications. (Deady Tr. 6-7, 14; Thompson Tr. 19).

now claiming damages, buy more than any single party dealing directly with the defendants and thus have more incentive to sue. The public agencies have undertaken sole responsibility for the prosecution of this litigation. They are the only parties who have actively pressed claims against defendants. It is simply not plausible that the Supreme Court intended Hanover Shoe to force those public agencies to suffer the injury and damages from antitrust violations without redress.

The principle espoused by defendants would effectively preclude all public agencies (including the federal government) from securing redress for injuries from price-fixing in the entire field of construction. A broad area of antitrust violations would be almost immune from civil damage actions. Contractors or other direct purchasers may be unwilling to antagonize important suppliers because of business relationships and possible retaliation. Moreover, the violation may be profitable to the direct buyers, who regularly mark-up and pass-on overcharges. It is unrealistic to expect any substantial number of direct purchasers to initiate or even participate in a treble damage suit under such circumstances. Whereas public bodies can sue without fear of antitrust counterclaims or other forms of retaliation, many antitrust cases are never brought because the injured firm is acutely aware that its own business practices may not stand close scrutiny under the antitrust laws.

4. The economic basis for rejection of the "passing-on defense" in Hanover Shoe has no application to recovery for purchases of price-fixed contract hardware by plaintiffs.

The difference between a retail purchaser of shoes and public agencies who pay a general contractor for contract hardware precludes reliance on Hanover Shoe as authority that the contractors who worked for such public agencies are the only parties having a claim for damages against defendants.

Hanover Shoe involved a situation where the plaintiff leased machines to produce shoes. When Hanover priced its shoes, it had to consider competition from other domestic and foreign shoe manufacturers, who operated with different overhead and different labor costs. No matter how accurate Hanover's cost accounting, it could not set its prices for shoes as a function of its costs for leasing the machines that produced the shoes. The prices for shoes depended on competitive conditions of supply and demand. Consequently, there was no direct correlation between the cost of the machines and Hanover's price for shoes -- much less the retail price at which ultimate consumers purchased the shoes. In such circumstances, the Supreme Court properly refused to let United Shoe muddy the record with esoteric inquiry into Hanover's profit margins and hypothetical pricing changes.

In contrast, there is a direct and readily proved relationship between the distributor's price of contract hardware and the contractor's bid to supply such material. Prior

to bidding the contractor knows what contract hardware is required and determines his precise costs for the hardware by getting firm quotes from distributors. The cost of contract hardware is "known" in advance of bidding; any increase in this cost has a direct impact on the plaintiffs. The other elements considered by a contractor in computing a bid are his labor costs, overhead, risk and the competition. While the final bid will depend on the contractor's estimate of such factors, the basic fact remains that the contractor's bid directly includes the cost to him of the contract hardware without variation. Competition among contractors does not affect the price of contract hardware and therefore is irrelevant to the question whether public agencies were injured by the illegally inflated price of contract hardware. 20/

The price paid by plaintiffs for hardware is excessive no matter what profit the contractor makes on his entire project since that contractor's bid directly took into account the higher price he was forced to pay for the hardware. If the cost of materials is inflated, this inflation directly registers in the contractor's bid regardless of other factors considered in setting the bid. The only further inquiry required into the calculation of the contractor's bid is whether

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20/ Defendants who conspired to raise the price of contract hardware included directly in the contractor's bid cannot claim credit for reductions in profit margins, labor costs, overhead or other factors that may have contributed to decline in bid totals.

the defendants are additionally liable for the contractor's mark-up on the excessive portion of the hardware price in addition to their liability for the price increase itself. That question is not now before the Court.

II. RECENT DECISIONS DENYING STANDING TO INDIRECT PURCHASERS ARE BASED ON A MISCONCEPTION OF HANOVER SHOE

In support of their motion for summary judgment, defendants rely upon several recent decisions commencing with Philadelphia Housing Authority v. American Radiator & Standard Sanitary Corp. (Mangano), 50 F.R.D. 13 (E.D. Pa. 1970), aff'd, 438 F.2d 1107 (3d Cir. 1971). E.g., Philadelphia Housing Authority v. American Radiator & Standard Sanitary Corp., (Maricopa County), 323 F. Supp. 364 (E.D. Pa. 1970); Denver v. American Oil Co., 55 F.R.D. 620 (D. Colo. 1971); Balmoe Inc. v. American Metal Products Corp., CCH Trade Cases ¶74,235 (N.D. Cal. 1972); Western Liquid Asphalt, CCH Trade Cases ¶74,419 (N.D. Cal. 1972) appeal pending, (9th Circuit). The remainder of this memorandum will point out the circumstances of Mangano, critically analyze the alleged rationale of the holdings that indirect purchasers lack standing, and discuss the recent decisions that have mechanically followed Mangano.

A. The Mangano weakness.

The Mangano decision is an exceedingly poor basis for the development of new law to insulate defendants from paying damages to indirect purchasers injured by antitrust violations.[21/] The first ground for the Mangano decision was the refusal of plaintiffs to answer interrogatories. Curiously, the issue whether the Hanover Shoe doctrine should limit the rights of indirect purchasers was conceded by the Mangano plaintiffs. 50 F.R.D. at 29. Moreover, counsel for plaintiffs abandoned further judicial review because "defendants have paid him $25,000 to cover his expenses in the Mangano case in return for his agreement not to seek certiorari" and he received an additional $19,000 in fees from the settlement that defendants made for his clients. Lin's Brothers Builders, Inc. v. American Radiator & Standard Sanitary Corp., 341 F. Supp. 1071, 1085 (E.D. Pa. 1972). In the short opinion affirming Mangano, the Third Circuit carefully limited that holding to the "circumstances" created by the refusal of plaintiffs to respond to discovery requests. Mangano v. American Radiator & Standard Sanitary Corp., 438 F.2d 1187, 1188 (3d Cir. 1971).

21/ One impartial commentator characterizes Mangano as "a step backwards" and urges that it be overruled. "Mangano and Ultimate Consumer Standing: The Misuse of the Hanover Doctrine," 72 Colum. L. Rev. , at 413.

The distortion of Hanover Shoe to require privity of contract between plaintiff and defendant began with law review articles authored by a leading defense counsel in the Plumbing Fixtures Antitrust Litigation. E.g., Hander, "Through the Antitrust Looking Glass -- Twenty-First Annual Antitrust Review," 57 Calif. L. Rev. 182, 211-212 (1969). Since then defendants have continued to bootstrap themselves.

The Plumbing Fixtures Antitrust Litigation itself illustrates the evil consequences of Mangano; for defendants can now use the "passing-on defense" to reduce their exposure and avoid substantial liability by making cheap settlements with their initial (and often friendly) purchasers. Ace Heating & Plumbing Co. v. Crane Co., 453 F.2d 30 (3d Cir. 1971), affirmed the trial court's approval of the settlement in the Plumbing cases and rejected the argument that not enough money had been allocated to contractors. Despite the prior decisions in Mangano and Maricopa County that indirect purchasers had no standing to recover damages, the Third Circuit saw no reason for the initial purchasers to recover either, stating:

> "the claims of this class [contractors] were minimized by the probability that overcharges made upon them were passed on to their customers." (453 F.2d at 34)

B. The alleged rationale of Mangano and its progeny simply don't wash.

The Mangano cases -- and defendants -- cite two grounds for applying Hanover Shoe to deny standing to indirect purchasers.

(i) proof that illegal overcharges were passed on would involve "insurmountable" problems of proof, and

(ii) suits by anyone but the initial purchaser would subject defendants to the risk of multiple liability. 22/

Upon close analysis, these factors do not justify a rule depriving public agencies and other plaintiffs of their remedy under the antitrust laws for price-fixing in the construction field.

1. The supposed difficulties of proof are exaggerated.

The facts do not support a blanket assumption that proof of injury by indirect purchasers will pose insurmountable problems and consume undue judicial resources. 23/ The federal courts have shown the capacity to entertain and resolve the factual issues bearing upon whether illegal overcharges were passed on to indirect purchasers. For instance, in Southern General Builders, Inc. v. Maule Industries, Inc., No. 67-[illegible]-Civ. (S.D. Fla. 1972), indirect purchasers were able to prove their financial injury as a matter of fact. Following an 89-day trial on the issue of liability, the jury found that defendants had conspired together to fix or stabilize the price of concrete

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22/ Memorandum of Defendants, pp. 11 and 17.

23/ It has been conceded by one prominent defense counsel that to prove overcharges were passed-on "would generally be no more difficult or complex than the plaintiff's task of proving the overcharge in the first instance." Pollack, "Automatic Treble Damages and the Passing-On Defense: The Hanover Shoe Decision," 13 Antitrust Bulletin 1185, 1270 (1968).

and that the conspiracy caused damage to the plaintiffs, who had purchased buildings through contractors. Defendants filed a motion for judgment n.o.v., arguing that plaintiffs lacked standing to recover damages. Upon consideration of Hanover Shoe and Denver v. American Oil Co., the trial court denied defendant's motion, holding that "a plaintiff may recover damages under Section 4 of the Clayton Act proximately caused by a price-fixing conspiracy in violation of Section 1 of the Sherman Act even in the absence of privity of contract between the plaintiff and a conspirator or a cost-plus arrangement between the plaintiff and one in privity with a conspirator." (Order of Feb. 24, 1972). A petition to appeal was denied by the Fifth Circuit in Lehigh Portland Cement Co. v. City of North Bay Village, Misc. No. 2364 (April 5, 1972).

On facts almost identical to this case, the jury found that plaintiff had suffered damages in Amco Steel Corp. v. State of North Dakota, 376 F.2d 206 (8th Cir. 1967). The damage award reflected illegal overcharges paid by North Dakota on metal culverts purchased through general contractors. Upon close review of the evidence, the Eighth Circuit affirmed the judgment entered on the jury verdict, holding:

> "With the same price quotation for the product being made to all contractors bidding on a highway project; with this quotation being used by the contractors as their cost basis for the product in computing their project bid; and with the conspirators having knowledge of this bidding reality and making quotation of their unlawfully-fixed prices on that basis -- there could hardly be much question that such prices, in their margin of artificiality from lack of competitive play, operated directly to injure the State in increased cost

> of its highway projects. Indeed, it would be difficult, if not impossible, for the jury to escape the conclusion that the use which was made of the products in the State's highway projects constituted a specific target of the conspiracy -- which fact, though not necessary to a recovery right by the State, at least added clarity on the proximateness of the injury." (376 F.2d at 210-211)

As support for its conclusion the Eighth Circuit quoted "typical" testimony of a contractor, which parallels the evidence in this case:

> "Before a bid letting I get prices from suppliers of materials, including metal culverts. I use the quote I get from the supplier; it is the only thing I can use. To this I add my profit and the installation costs. The quotations given me are based on what has been called the 'list price'". (376 F.2d at 210, n. 4)

The Eighth Circuit rejected the argument now advanced by defendants, stressing that it:

> "ignores the realities which the evidence entitled the jury to find existed, that the price quotations made by a supplier to a contractor as to a particular project constituted in the trade a commitment to the contractor to supply him with such quantity of the products as was required by the plans and specifications, upon the quoted basis, should he get the job; that while the supplier might, if the contractor got the job, grant him some discount from the quoted price, this was never done until after he had been awarded the job, nor was there any agreement or obligation in this regard at the time the price quotations were made, and the amount of any such discounts could vary as between projects; and that it accordingly was the uniform practice of the contractors to use the list-price quotations as their cost basis for the products in making up their bids on a project." (376 F.2d at 210)

The proof of damages for illegal overcharges on contract hardware would not be any more difficult. The record shows that defendants conspired to fix the prices of contract hardware and unlawfully agreed to allocate jobs and customers among their distributors to eliminate competition and maintain prices at artificially high levels. On building projects, the distributors bid or quoted the inflated prices to general contractors for the contract hardware specified by the architect or owner. The general contractor included the inflated price as a material cost, and applied his mark-up to the total material costs. The inflated price was thus borne entirely by the building owner.[24/]

The issue whether the contractors in the chain of distribution passed on the illegal overcharges to plaintiffs is a question of fact that should be resolved by the jury. Several federal decisions since Hanover Shoe have treated the "passing-on defense" as "simply one of the factors to be considered in determining damages in an antitrust action under the federal statutes." Lee's Prescription Shops, Inc. v. Chas. Pfizer & Co., CCH Trade Cases ¶73,180 (S.D.N.Y. 1970). Recently the Tenth Circuit held that the trial court properly

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24/ This case poses no more complicated issue of economic fact than federal courts have traditionally resolved. See, e.g., Reynolds Metals Co. v. FTC, 309 F.2d 223 (D.C. Cir. 1962); United States v. United Shoe Machinery Corp., 110 F. Supp. 295 (D. Mass. 1953), aff'd per curiam, 347 U.S. 541 (1954).

instructed the jury that it could consider whether contractors had "passed-on" illegal overcharges to subsequent purchasers in deciding what damages had been caused by defendants' antitrust violations. Standard Industries, Inc. v. Mobil Oil Corp., 1973 CCH Trade Cases ¶74,404 at p. 93,847, n. 1 (10th Cir. 1972).

In short, proof of injury and damages by indirect purchasers has been established in jury trials without undue complexities and has resulted in recoveries by such plaintiffs.

2. The supposed "difficulties" in proving damages should not affect the legal standing of indirect purchasers.

It is "neither reasonable as a matter of policy nor justified by the decision" in Hanover Shoe that concern about difficulties of proof should "overshadow both the judicially recognized policy of promoting private enforcement of the antitrust laws and the statutory policy of compensation for injury." "Mercano and Ultimate - Consumer Standing: The Misuse of the Hanover Doctrine," 72 Colum. L. Rev. at 410.

The Supreme Court's stress on problems of proof in Hanover Shoe reflected its underlying policy to ensure the efficacy of private antitrust enforcement. Assertion of the "passing-on defense" in Hanover Shoe would have created serious obstacles for the only party able to prosecute the defendant. But in this case -- where the indirect purchasers have asserted claims to recover their actual damages -- and are in a position to prove those damages with reasonable

facility -- judicial economy cannot justify the absolute denial of standing and thus relief to plaintiffs.

The Supreme Court did not consider or discuss the economic consequences of the purchase and resale of a price-fixed product. Hanover Shoe cannot be taken as laying down an immutable rule that there is no economic connection between a contractor's material costs and his price to the owner for the materials.[25/]

The Supreme Court noted in Hanover Shoe that assertion of the "passing-on defense" would involve "nearly insuperable difficulty of proof" that the cost of leasing the machinery affected plaintiff's prices and margin of profit. (392 U.S. 493). Justice White predicted that defendants would seize upon the "passing-on defense" to burden and impede the prosecution of treble-damage actions. This unwillingness to allow a defense based on inconclusive and misleading economic inquiry accords with prior federal decisions that have refused to let defendants introduce evidence of profit or loss in price-fixing cases. For instance, in Commonwealth Edison Co. v. Allis-Chalmers Mfg. Co., 40 F.R.D. 96 (N.D. Ill. 1966), Chief Judge Robson

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25/ The Supreme Court cited a "cost-plus" contract as one example of a situation in which proof of the "passing-on defense" would be feasible. The reference to this exception must be viewed in Hanover Shoe's factual context. It was not meant to be exclusive; much less should it limit the right of plaintiffs to trace the illegal overcharge on contract hardware through the one level of distribution.

held that defendant's figures for "actual costs, profits or losses" were not admissible. See also United States v. Alcoa, 148 F.2d 416, 427 (2d Cir. 1945); American Crystal Sugar Co. v. Mandeville Island Farms, 195 F.2d 622, 626 (9th Cir.), cert. denied, 343 U.S. 957 (1952).

The argument now advanced by defendants may be analogized to the assertion that federal courts should refuse to entertain "consumer class actions" because they are unmanageable. The Manual for Complex Litigation (¶1.43) offers the short answer that "denial of the class action might well mean a total denial of relief as a practical matter to the matter for the persons injured."

> "Rule 23 grants to the court broad discretionary powers to enable the court successfully to solve the novel administrative problems posed in a class action by the unusually large number of members of the class, each of whom may have small monetary claims ... Because of the plenary authority granted to the court to control class action litigation, the problems of administration, alone, ordinarily should not justify denial of an otherwise appropriate class action request .... "

These observations compel rejection of a position that would completely deny plaintiffs the right to prove damages merely to save judicial time and resources.

Moreover, the Supreme Court has repeatedly held that the plaintiff's burden of proof should be eased rather than let a violator of the antitrust laws escape liability because it is difficult to calculate the precise amount of damages he caused. E.g., Story Parchment Co. v. Patterson Parchment Paper Co., 282 U.S. 555, 564 (1931). In Angelow v. RKO Pictures,

327 U.S. 251, 264-265 (1946), the Supreme Court ruled:

> "But the jury may make a just and reasonable estimate of the damage based on relevant data, and render its verdict accordingly ... any other rule would enable the wrongdoer to profit by his wrongdoing at the expenses of his victim ... The most elementary conception of justice and public policy require that the wrongdoer shall bear the risk of the uncertainty which his own wrong has created."

Under these principles, plaintiffs should be given the opportunity to present proof to the jury that the impact of the illegal overcharges fell upon them.

3. The threat of multiple liability is illusory.

The procedures available in the federal courts remove the danger that defendants will have to pay damages twice for the same illegal acts. Double liability might be threatened if suits by direct and indirect purchasers were pending before different courts. This is not a realistic possibility since this litigation has been consolidated for pretrial proceedings under 28 U.S.C. §1407. The cases may thereafter be consolidated and transferred to the same district for trial under 28 U.S.C. §1404(a).

The only other chance of double liability would arise if additional suits were filed after this litigation has been decided.[26/] This possibility is more theoretical than real.

26/ The one year statute of limitations from the end of the federal government's case will run within the next few months.

The period of limitations will undoubtedly expire before this trial is completed. As the court remarked in State of Washington v. American Pipe & Construction Co., 274 F. Supp. at 965, wherein indirect purchasers were permitted to sue:

> "Defendant has also raised the specter of double liability if sued by the general contractors. Defendant's argument does nothing more than present this court with a hypothetical question concerning the allocation of provable injury, not with that of the standing necessary to maintain a cause of action."

Other federal courts have recognized that they have the means to protect defendants from multiple liability. Missouri v. Stupp Brothers Bridge & Iron Co., 248 F. Supp. at 177; Ohio Valley Electric Corp. v. General Electric Co., 244 F. Supp. at 951.

In the event that defendants were sued by contractors for the same conduct involved in this litigation, the "passing-on doctrine" would be applied to allocate provable damages among the different classes of plaintiffs. 27/ Classes may then be defined to include all direct and indirect purchasers. "Given the equitable powers and procedural flexibility of our courts, measures can surely be devised to limit the extent of multiple liability of defendants, to apportion damages among

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27/ Defendants can use statutory interpleader, 28 U.S.C. §1335, to require all claimants to litigate, if they deem it necessary. One contractor has apparently sued (Bermar Construction Corp. v. Embart Corp. (C.A. No. 14,232), but the status of his claim is uncertain since his counsel also purports to represent the State of Florida.

several classes of plaintiffs, and to analyze complicated economic theories of proof raised by private antitrust actions." "Mangano and Ultimate Consumer Standing: The Misuse of the Hanover Doctrine," 72 Colum. L. Rev. at 413.

C. The other recent decisions relied upon by defendants make the same errors as Mangano.

We have pointed out that Mangano represents a radical departure from established doctrine, weakens private antitrust enforcement and distorts Hanover Shoe. But the three years since Mangano have seen lower courts reach the same result without any real analysis of the relevant legal principles and appropriate policy considerations. The same criticisms set forth in the foregoing general discussion apply to the decisions following Mangano. We would briefly comment, though, on these decisions.

In the companion case of Maricopa County, Judge Harvey felt bound by Mangano, especially since plaintiffs conceded Mangano was correctly decided and that Hanover Shoe barred the claims of indirect purchasers.[28/]

Judge Smith reluctantly reached his decision in Western Liquid Asphalt, CCH Trade Cases ¶74,419, at p. 93,894,

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28/ Proceedings of November 20, 1970, before Judge Harvey (Tr. 41-43).

relying almost entirely upon Southern Pacific Co. v. Darnell-Taenzer Lumber Co., 245 U.S. 531 (1918), for his illogical ruling "that an immediate purchaser may recover and that a remote purchaser may not, even though the former suffers no money loss and the latter does." (at p. 93,895). Besides offending common sense, there are two reasons why Darnell-Taenzer did not warrant the result reached in Western Liquid Asphalt and should not apply to this case. First, Darnell-Taenzer was decided when privity was still required under tort law;[29] it did not enshrine privity as a prerequisite to antitrust suits. Compare Missouri v. Stump Bridge & Iron Co., 248 F. Supp. at 171, which rejected the argument that Darnell-Taenzer required dismissal of an antitrust action brought by indirect purchasers. Second, Darnell-Taenzer was a suit brought under the Interstate Commerce Act (49 U.S.C. §1), not the antitrust laws. It thus involved the problem of administrative agency regulation, a consideration not present in this case.[30]

The decisions in Ellipse, Inc. v. American Metal Products Corp., CCH Trade Cases ¶74,235 (N.D. Cal. 1972) and Denver v. American Oil Co., 53 F.R.D. 620 (D. Colo. 1971),

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29/ E.g., National Savings Bank v. Ward, 100 U.S. 195 (1879).

30/ Where rates paid by ultimate consumers are regulated by governmental agencies, it may be appropriate to have consumers pursue their administrative remedies. Keogh v. Chicago & N.W. Ry. Co., 260 U.S. 159 (1922).

confuse the class action issue with standing to sue for damages. Balmer erroneously construes Hanover Shoe as requiring privity of contract between plaintiff and defendant. Both opinions reiterate general observations regarding the supposed difficulties of proof, but neither makes any factual inquiry into how remoteness would prevent the plaintiffs from proving injury and damages. 31/

CONCLUSION

WHEREFORE, plaintiffs urge this Court to enter an order denying the defendants' motion for summary judgment.

Respectfully submitted,

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DATED: April 30, 1973

31/ In Denver v. American Oil Co., the court's explicit belief that Denver was not an adequate class representative undoubtedly influenced its holding that indirect purchasers had no cause of action.

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

IN RE: MASTER KEY ANTITRUST LITIGATION	M.D.L. DOCKET NO. 45 ALL CASES

SUPPLEMENTAL ANSWERS OF ILLINOIS TO DEFENDANTS' FIRST SET OF INTERROGATORIES

Pursuant to agreement between the State of Illinois and all defendants, the State of Illinois submits the following supplemental answers to defendants' first set of interrogatories.

Plaintiff reserves the right to correct, amend and supplement these answers as additional information and documents become available.

Interrogatory 1

State whether you are:

(c) A state or municipal government, governmental agency, authority, subdivision or other governmental unit and, if so, state:

(i) The type of governmental body, agency, authority, subdivision or unit;

(iv) A description of each of your functions insofar as they relate to the purchase of builders hardware;

(v) The extent of your jurisdiction (e.g., state-wide, county-wide, etc.);

(vi) The identification of each of your past and present members, officers, executives and managing agents with responsibility for the purchase of builders hardware or the planning of any project or installation in which builders hardware is utilized;

(viii) The address of your principal office and any other place at which you now transact or have transacted your affairs.

Supplemental Answer to Interrogatory 1(c):

Most state construction in Illinois during the relevant period was accomplished through one of three agencies:

(1) the Illinois School Building Commission (SBC):
216 East Monroe Street, Springfield, Illinois

(2) the Illinois Building Authority (IBA);
135 South LaSalle Street, Chicago, Illinois

(3) the Office of the Supervising Architect, Department of General Services (OSA).
705 State Office Building, Springfield, Illinois.

Currently, SBC and IBA are being phased out and OSA has been placed under the authority of the Capitol Development Board (216 East Monroe Street, Springfield, Illinois), which was created in 1972 to streamline and consolidate state construction procedures

Illinois School Building Commission (SBC)

Created in 1957, SBC was empowered to utilize general revenue funds for elementary and secondary school construction projects for rental to school districts. At the end of 16 2/3 years, buildings are deeded to the school district. School districts arrange for architectural services including preparation of finish hardware specifications and review of finish hardware schedules. SBC reviews specifications and lets the contracts.

Illinois Building Authority (IBA)

Created in 1961, IBA was empowered to sell revenue bonds and utilize the proceeds for construction required by code agencies, boards and commissions, higher educational institutions and other such facilities. IBA rents the completed building to the state agency for whom the construction is undertaken. User institutions arrange for architectural services including preparation of finish hardware specifications and review of finish hardware schedules. IBA normally lets multiple prime contracts; one for general work which includes finish hardware.

Office of the Supervising Architect (OSA)

Between 1967 and 1973, OSA was under the Construction Management Division of the Department of General Services and was responsible for the construction needs of code agencies, boards and commissions under the governor and other state agencies. Prior to 1967, this responsibility rested with the Department of Public Works and Buildings, Division of Architecture & Engineering.

On large projects, OSA retains outside or associate architects responsible for preparation of specifications, including finish hardware specifications, and for approval of finish

hardware schedules. OSA reviews such specifications and hardware schedules. On smaller jobs, OSA serves as architect.

OSA lets the construction contracts (the general work contract includes finish hardware) except on IBA projects and provides full construction management services.

Interrogatory 5:

State whether, during the period covered by these Interrogatories, you purchased builders hardware from a person other than those identified in your answers to Interrogatories 3 and 4, and if your answer is in the affirmative, provide as to each purchase the same information as is requested in Interrogatory 4(a) through 4(j), inclusive.

Interrogatory 7:

Identify by name and location each structure owned by you at the present time or at any time for which these Interrogatories apply in which a master key system was installed, and with respect thereto state:

(a) Whether the structure constituted or included:

(i) Dwelling houses;
(ii) Apartment buildings;
(iii) Office buildings;
(iv) School buildings;
(v) Other buildings or structures of any kind,

specifying the kind of structure;

(b) The brand name or brand names of the master key system or component parts thereof installed in the structure;

(c) The identity of the person or persons who made the decision to install such a system;

(d) The identity of the person or persons who prepared the builders hardware specifications;

(e) The identity of the person or persons who made the decision as to which brand or brands of cylinders and/or locksets would be specified and/or approved;

(f) The identity of the person or persons who made the decision as to which brand or brands of door closers and fire exit bolts would be specified and/or approved;

(g) The brand name or brand names of cylinders and/or locksets which were permitted by the specifications to be provided on said structure;

(h) The brand name or brand names of door closers and fire exit bolts which were permitted by the specifications to be provided on said structure; and

(i) The person who purchased or contracted for the purchase of the master key system or component parts thereof, and the door closers and fire exit bolts thereof, and the relationship of such person to you.

Interrogatory 9:

If you identified any structure in answer to Interrogatory 7 and you had constructed or caused the structure to be constructed, state as to each such structure:

(a) The name and address of the general contractor for the structure and the date on which construction was completed;

(b) The total cost of the structure to you;

(c) Whether you had a contract with the seller which fixed the price paid by you pursuant to a pre-existing cost-plus or fixed maximum arrangement, and if so, state the terms of such agreement;

(d) Whether the cost was broken down so as to set forth separately the price of the master key system or any component parts thereof or any of the hardware installed on or in connection with the doors in the structure;

(e) If your answer to (d) above is in the affirmative, state:

(i) The price of the master key system and/or any component part thereof; and

(ii) The price of the hardware installed on or in connection with the doors in the structure; and

(f) Whether the contract price of the structure was determined by public bidding.

Supplemental Answer to Interrogatories 5, 7 and 9:

The State of Illinois has constructed numerous public buildings in which master key systems have been installed. In Appendix "A",*/ plaintiff has set forth the following information (where available) with respect to such buildings:

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*/ This appendix supersedes Appendices "A", "B", "C", "D" and "E" attached to the answers which Illinois filed on April 25, 1973, to defendants' first set of interrogatories.

(1) project name and address;

(2) date of construction;

(3) finish hardware supplier;

(4) cost of all construction and/or the general work;

(5) cost of finish hardware.

The information set forth in Appendix 'A' has been compiled from records and information supplied by the agencies and institutions identified in answer to Interrogatory 1(c). These records consist principally of:

(i) bid tabulation sheets for all construction and/or for the general work;

(ii) lists of approved suppliers which identify the finish hardware suppliers;

(iii) general contractors' payout applications and affidavits which show the supplier and cost of finish hardware as a line entry as well as the cost of all work covered by the general contract;

(iv) general contractors' contract breakdown sheets;

(v) hardware specifications;

(vi) hardware schedules which name the finish hardware supplier, list the finish hardware brands used, and provide master keying information.

Pursuant to Rule 33(c), defendants may inspect the records used in preparing Appendix "A", which have been assembled in the offices of plaintiff's counsel at One IBM Plaza, Chicago,

Illinois, 60611. Additional records relating to the projects on Appendix "A" are at the offices of the Capitol Development Board, the Supervising Architect, and in the State Archives in Springfield, Illinois, or in the State Records Center, 107 East Monroe Street, Springfield, Illinois. These construction project records contain the additional details requested by Interrogatories 5, 7 and 9, but not tabulated in Appendix "A"; the burden of deriving that information from the records is substantially the same for plaintiffs and defendants. For some projects, the State of Illinois has not maintained complete records. In these instances, plaintiff will seek to obtain the requested information from the individual institutions and/or architect.

Interrogatory 12:

Identify the documents to which you referred in preparing your answers to Interrogatories 2 through 11, specifying as to each document the answer to which such document relates.

Supplemental Answer to Interrogatory 12:

By agreement, plaintiff will produce the requested documents in lieu of identifying them.

Interrogatory 13

Identify the documents from which the following information can be obtained:

(a) The date when you purchased master key systems or any component part thereof and the price paid therefor;

(b) The date when you purchased items of builders hardware other than master key systems and the price paid therefor; and

(c) The date when you entered into any agreement for the purchase or construction of a structure on which was installed a master key system or any component part thereof, the price paid for such purchase or construction, and the manner in which the price paid for such purchase or construction was determined.

Supplemental Answer to Interrogatory 13:

As explained in answer to Interrogatory 6, aside from replacement hardware, master key systems and components and all other items of builders hardware are acquired by plaintiff through general contractors, pursuant to the functional equivalent of a cost-plus arrangement. Appendix "A" sets forth construction dates and finish hardware costs charged plaintiff by general contractors. For the nature and location of records relating to plaintiff's arrangements with general contractors, see Supplemental Answers to Interrogatories 5, 7, 9, 14 and 15.

Interrogatory 14:

For each year or portion thereof from 1 January 1950 to the date upon which you file your answers to these Interrogatories, state your policy with respect to the retention of documents, including business records, and identify any document which sets forth such policy or change in such policy.

Interrogatory 15:

If any document whose identification or description is called for in any of the foregoing Interrogatories 1 through 14, inclusive, was once in your possession or subject to your control but is so no longer, state as to each such document:

(a) The description of the document and which of the foregoing Interrogatories calls for its identification or description;

(b) What disposition was made of the document;

(c) The person who was last known to have the document in his possession or subject to his control; and

(d) The name, last known address, and every position held by each person you have reason to believe had knowledge of its contents or received a copy of such document.

Supplemental Answer to Interrogatories 14 and 15:

Illinois School Building Commission (SBC) -- SBC has no stated document retention policy but has retained files back

to the early 1960's containing bid awards, construction contracts and payout affidavits and applications. Its records do not include specifications or finish hardware schedules. SBC records not assembled at the offices of plaintiff's counsel in Chicago are housed at the Capitol Development Board, 216 East Monroe Street, Springfield, Illinois.

Illinois Building Authority (IBA) -- IBA has retained contract documents including bid tabulation, award sheets and construction contracts as well as general contractor's payout applications. With respect to other records, IBA has no express retention policy. For most projects it does not have specifications or finish hardware schedules. Its records are at its office at 135 South LaSalle Street, Chicago, Illinois.

Office of the Supervising Architect (OSA) -- Records of OSA and its predecessor have been retained for the periods indicated:

(1) general work "contract folders" including the general contractor's final payout affidavit - 1963 to date;

(2) specifications - indefinitely. Specifications for projects built before 1968 are in the State Archives. Current project specifications are at OSA's office.

(3) finish hardware schedules are normally retained in OSA current files for 4 or 5 years and thereafter destroyed.

See also Supplemental Answer to Interrogatories 5, 7 and 9.

DATED: December 6, 1973.

LEE A. FREEMAN, JR.

DONALD F. COLLETON

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ONE IBM PLAZA
CHICAGO, ILLINOIS 60611
(312) 467-6540

STATE OF ILLINOIS)
) SS.
COUNTY OF C O O K)

DONALD P. COLLETON, being duly sworn, deposes and says that he is one of the attorneys for the State of Illinois; that the information set forth in the foregoing supplemental answers of Illinois to defendants' first set of interrogatories was compiled by him from construction project records and information provided by employees of Illinois; and that the answers to these interrogatories are true to the best of his own knowledge, information and belief.

DONALD P. COLLETON

Subscribed and sworn to
before me this 6th day
of December, 1973.

Notary Public

ILLINOIS - APPENDIX "A" INDEX

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Eastern Illinois University Charleston					
Life Science Building	1961			$ 585,511	
Thomas Hall	1962			1,394,333	
Taylor Hall	1962			1,394,333	
Clinical Services Building	1963			204,691	
Andrews Hall	1963			1,327,413	
Life Science Annex	1963			204,128	
Married Student Apartments Series 1965	1964			169,018	
Physical Plant Building	1964			130,800	
Old Science Building	1964			53,253	
Gregg Triad	1964			230,708	
Coleman Hall Phase I	1964			550,739	
Physical Education & Recreation Building Phase II	1965			592,017	
Telephone Security Building	1965			54,289	
Applied Arts Building Phase I	1965			941,240	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Eastern Illinois University (continued)					
Charleston					
Stevenson Tower (including food service)	1966			$ 1,985,546	
Lawson Hall	1966			1,573,876	
University Union Phase II (Addition to)	1966			497,769	
Applied Arts Education Center - Addition	1967			242,188	
Library Addition	1967			1,812,500	
Classroom Building	1967			976,728	
Married Student Apartments, Series 1967	1967			436,975	
Remodeling of Practical Arts Building (Student Services Building)	1968			45,571	
Textbook Library - Remodeling of Pemberton Hall Gym	1968			70,040	
Heating Plant Addition	1968			104,800	
Water Storage Tank Bldg.	1968			168,850	

ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois State University Normal					
Milner Library Addition	1963	F. Meyer & Brothers Co. Peoria	$ 500,000		$ 4,545
Horton Field House	1961	Peter Vredenburgh Lumber Co. Springfield	3,513,000		25,000
East Residence Group	1965	Fred Scherer, Inc. Ottawa	6,808,153		49,000
Atkin-Colby Halls Women's Residence Halls South	1961	Peter Vredenburgh Lumber Co. Springfield	3,527,573		26,897
Centennial Addition Classrooms & Faculty Offices	1964	Stein Hardware Peoria, Illinois	325,000		9,440
Hamilton-Whitten Halls Feeney Food Service	1959	Holder Hardware Company Bloomington	3,793,758		29,000
Felmley Hall of Science Annex	1962		1,980,000		
McCormick Gym Addition	1962	S.&.S. Builders Hardware Co. Peoria	486,000		5,000
Turner Hall	1962	F. Meyer Brothers Company	1,750,000		
Cardinal Court First Addition	1963		797,200		

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois State University Normal (continued)					
Schroeder Hall Annex	1963	Ollar Hardware Company Maine	$ 900,000		
University High School	1963	Vredenburgh Lumber Co. Springfield	2,000,000		$ 22,711
Harris Physical Plant	1964		325,000		
Heating Plant Addition	1965				
Green Food Service	1967	Peter Vredenburgh Lumber Springfield	1,195,600		4,600
Hovey Hall Addition	1967	Stein Hardware Peoria	626,315		12,028
Stevenson Hall	1967	Vredenburgh Lumber Co. Springfield	2,221,998		52,235
Watterson Towers Complex	1967	Midwest Hardware Co. Chicago	12,460,491		165,000
East Gate Hall Administrative Services Building	1968	Alpha Material & Fuel Co. Champaign	1,516,850		14,000
General Services Bldg.	1968	Alpha Material & Fuel Co. Champaign	1,413,216		13,000
Humanities Building	1967			$2,198,000	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Universities					
Northern Illinois University DeKalb					
Anderson Hall - Physical Education Building	1961	Root Brothers Hardware	$ 2,063,351	$ 1,563,367	$ 30,000
Art Building	1968	Edward Stauber Wholesale Hardware Waukegan, and Architectural Hardware & Supply Aurora	2,903,901		20,144
Central Receiving	1962	Architectural Hardware & Supply Aurora	350,118		
Central Receiving Addition	1970	Fred Scherer Ottawa	1,275,470	861,429	4,770
Communications & Security Building	1963	Architectural Hardware & Supply Aurora	151,128		
Douglas Hall Dormitory	1961	Witts Hardware Company Davenport, Iowa	4,193,864	2,468,804	56,884
Faraday Hall Science Bldg.	1962	Edward Stauber Wholesale Hardware Waukegan	1,148,827		22,219
Graham Hall - Classroom Building	1962	Justafson & Steele Hardware Co.	1,528,177	1,031,945	13,075
Graham Hall - Classroom Building - Fourth Floor	1966	Edward Stauber Wholesale Hardware Waukegan	139,706	80,589	1,867

ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Universities (continued)					
Northern Illinois University DeKalb (continued)					
Grant North Residence Hall	1964	Architectural Hardware & Supply Aurora	$ 4,441,150		$ 46,760
Grant South Residence Hall	1963	Architectural Hardware & Supply Aurora	5,261,871		
Health Services Building Addition	1966	Architectural Hardware & Supply Aurora	1,782,148	$ 1,247,322	10,785
Heating Plant East Addition	1968		131,647		1,800
Lawden Hall - Administration Building	1963	Fred Scherer, Inc. Ottawa	988,106	633,983	7,341
Library					
North Addition	1963		865,036		
South Addition	1962	Nicholson Hardware Rockford		402,972	5,000
Stack Addition	1962	Nicholson Hardware Rockford	206,958	149,809	323
Lincoln Hall Dormitory	1960		3,856,133		

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Universities (continued)					
Northern Illinois University DeKalb (continued)					
Lorado Taft Field Campus					
Dining Hall & Dormitory	1962		$ 211,352	$ 138,701	$ 4,000
Dormitory	1970		223,690	125,591	3,300
Montgomery Hall Science Building	1967	Edward Stauber Wholesale Waukegan	3,568,027	2,132,619	24,916
Reavis-Watson Complex Classroom, Office & Lecture Hall	1966	Architectural Hardware & Supply Aurora	5,628,148		36,309
Stadium West	1964	Edward Stauber Wholesale Waukegan	2,187,425	1,591,069	15,076
Stevenson Residence Hall North	1967	Architectural Hardware & Supply Aurora	5,516,421	3,547,236	56,086
Stevenson Residence Hall South	1966	Architectural Hardware & Supply Aurora	6,594,411		
University Center	1960		2,422,703	1,506,592	
University Center - Expansion	1966	Architectural Hardware & Supply Aurora	4,285,770	2,607,057	45,000

ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Universities (continued)					
Northern Illinois University DeKalb (continued)					
Watson Hall Classroom Building	1961		$ 852,387		
Wirtz Hall - Practical Arts Classroom Building	1962	Root Brothers Manufacturing Co. Chicago	1,558,199	$ 1,098,748	$ 32,845
Health Services Building Phase II	1967			533,000	
Remodel Speech Building at Speech & Hearing Clinic	1968			23,263	
Remodel Davis Hall Basement	1968			78,990	
Altgeld Hall Remodeling & Rehabilitation - Phase I	1968			308,603	

ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Universities (continued)					
Southern Illinois University Carbondale					
Presidents Residence & Guests Facilities					
Electrical Distribution Modifications to Power Plant		M.F. Builders Supply, Inc. DesPlaines			
Family Housing II	1960	Belknap Hardware & Manufacturing Company Louisville, Kentucky	$ 1,368,598		$ 12,575
Kellog, Warren, Smith, Abbitt & Baldwin Halls	1960	Schlitt Supply Company Springfield	2,206,188		25,000
Lentz Hall Phase II	1960	United Lumber Company St. Louis, Mo.	536,897		1,500
Anthony Hall Remodeling	1961		480,312		9,100
Physical Education & Athletics Building	1961	Peter Vredenburgh Lumber Co. Springfield	3,510,676		17,100
Small Group Housing Phase II	1961	United Lumber Company St. Louis	1,576,405		15,900
Wham Education Building	1961	Barrison E. Clarke, Inc. Ballwin, Mo.	2,658,191		19,900

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Universities (continued)					
Southern Illinois University Carbondale (continued)					
Morris Library	1962	Schlitt Supply Company Springfield	$ 2,674,182		$ 12,000
Classroom Building A	1963	Howell Hardware Company Chicago	1,767,057		18,000
Communications Building Stage I	1963	Schingel Hardware Specialties Decatur	3,737,763		40,000
Lanson Hall - Classroom Building B	1963		1,602,117		35,500
University Park Residence Halls					
Allen Hall	1963	Howell Hardware Company Chicago	1,145,039		24,967
Boomer Hall	1963	Howell Hardware Company Chicago	1,121,677		24,966
Trueblood Hall	1963	Howell Hardware Company Chicago	2,081,908		16,000
Wright Hall	1963	Howell Hardware Company Chicago	1,145,039		24,967
Technology Building	1964	Howell Hardware Company Chicago	4,393,631		48,450

ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Universities (continued)					
Southern Illinois University Carbondale (continued)					
Brush Towers Residence Halls	1965	Hennges Company St. Louis, Mo.	$ 10,951,644		$ 141,800
Physical Sciences Building Stage I	1965	Goltermann & Sabo, Inc. St. Louis, Mo.	4,296,463		15,000
Power Plant Additions Phase II	1965		831,929		400
Fire Station	1967		67,891		
Life Science II	1968	Hennges Company St. Louis, Mo.	9,799,042		48,614
Morris Library Completion	1968	Mt. Vernon Builders Specialty Co. Mt. Vernon	1,620,507		9,000
Physical Sciences Building Stage II	1968	Empire Building Products, Inc. Evansville, Indiana	2,094,217		17,000
University Center	1968	Peter Vredenburgh Lumber Co. Springfield	8,003,527		25,500
Communications Building Stage II	1969	Schingel Hardware Specialties Decatur, Illinois	2,888,070		26,500
Temporary Classrooms	1969		358,926		

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Universities (continued)					
Southern Illinois University Carbondale (continued)					
Saryock Auditorium Remodel	1969	Architectural Sales Division-Lensing Wholesale, Inc. Evansville, Indiana	$ 1,272,604		$ 6,000
Southern					
Dormitory V.T.I.	1966		705,887		3,734
Tamaroa					
T.V. Transmitter	1961		60,312		
Olney					
T.V. Transmitter	1967		141,726		
Carbondale (continued)					
Home Economics Building	1961			$1,762,848	
Thompson Point Dining Hall Addition	1962			389,014	
Family Housing III	1969			3,339,301	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Universities - Continued					
Southern Illinois University Edwardsville					
Peck Classroom Building	1963	Joseph Jutzi Co. St. Louis, Missouri	$ 3,603,343		
Lovejoy Memorial Library Building	1963	Joseph Jutzi Co. St. Louis, Missouri	3,695,006		
Science Lab	1963	Joseph Jutzi Co. St. Louis, Missouri	4,121,237		
Communications Building	1964	Joseph Jutzi Co. St. Louis, Missouri	3,517,870		
Student Union	1964	Joseph Jutzi Co. St. Louis, Missouri	5,557,150		
General Offices Building	1967	Empire Building Products Evansville, Indiana		$ 2,700,000	
Science Office Addition	1967		1,022,997		$ 8,120
Physical Sciences Building Addition	1968			1,480,000	
Supporting Service Building	1968			1,074,972	

ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction General Work	Cost Of Finish Hardware
Southern Illinois University Edwardsville				
Sewage Treatment Plant	1966		$323,584	
Heating & Refrigeration Plant	1967		378,706	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
University of Illinois					
Champaign Campus Champaign					
Civil Engineering Building - Phase I	1964			$ 2,032,743	
Undergraduate Library Building	1966			2,958,862	
Psychology Building	1967			5,549,000	
Library Building Addition & Women's Gymnasium Addition	1968			1,254,000	
Civil Engineering Building & Addition	1968			3,604,148	
Small Animal Clinic Buildings	1968			5,448,118	
Circle Campus Chicago					
Six Facilities - Phase II	1966			24,986,300	
Behaviorial Sciences Center Building	1967			8,990,000	
Utilities Center Addition	1968			750,060	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
University of Illinois (continued)					
Circle Campus Chicago (continued)					
Science & Engineering Center Building	1968			$ 17,286,000	
Physical Education Building	1968			5,954,000	
Education	1969			6,060,606	
Medical Center Campus Chicago					
Dental Medical Pharmacy Building Addition	1966			3,088,600	
College of Nursing Office & Classroom Building	1967			4,805,000	
Medical Sciences Building Addition	1967			1,584,404	
Medical Research Laboratory Addition	1968			2,946,800	
College of Dentistry Building	1969			8,763,501	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Universities (continued)					
Western Illinois University Macomb					
Corbin Hall	1961		$ 1,544,626		
Memorial Library	1961		937,040		
Health Services	1962		170,858		
Lincoln-Washington Towers	1962		2,622,178		
University Union	1962		923,949		
Western Hall	1962		1,026,783		
Central Stores	1963		61,242		
Marrall Hall	1963		1,050,357		
Olson Hall	1964		1,706,155		
Bayliss-Henninger Hall	1965		3,082,712		
Harrabin Hall	1965		1,289,264		
Married Students Apartments #2	1965		583,190		
Comissary	1966		71,026		
Higgins Hall	1966		4,539,035		

ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Universities (continued)					
Western Illinois University Macomb					
Morgan Hall	1966		$ 2,522,950		
University Union Addition	1966		1,800,969		
Tanner Hall	1967		3,818,948		
Waggoner Hall	1968		3,822,407		
Classroom Building	1966			$2,457,988	
Heating Plant Addition	1966			99,950	
Life Sciences Building	1967			3,662,000	
Class & Agricultural & Garage Building	1968			3,542,999	

ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Junior Colleges					
Belleville Area College Phase I Belleville	1970	Henges Company St. Louis, Mo.	$ 3,745,000		$ 16,800
Black Hawk College District 503 Project I Moline	1967			$ 5,280,973	
College of Du Page Glen Ellyn					
Instructional Unit One (Classroom & Lab Building)	1970	Illini Hardware Co. Bensenville	14,825,404		47,965
Interim Facilities (Classroom & Gymnasium Facilities)	1968	Security Lumber & Supply Co.	2,373,360		23,245

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Junior Colleges (con't)					
Kaskaskia College District 501 Phase I Gymnasium, Vocational Technical & Library Buildings Centralia	1969	Odam-Hecker Champaign	$ 3,461,261		$ 10,025
Lake Land College Phase I Mattoon	1968	Henges Hardware St. Louis, Mo.	3,000,000		
Rock Valley College Rockford					
Project I	1967			$ 4,395,900	
Project II	1968			6,942,000	
Project III	1968			473,050	
Sauk Valley College District 506	1968			8,387,883	
Thornton Community College South Holland					
Permanent Building Phase I	1969	Edward Stauber Wholesale	7,693,739		57,045
Temporary Facilities Remodeling of Shopping Center Complex	1969				

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Junior Colleges (con't)					
Triton College River Grove					
Project I	1967			$ 2,360,000	
Project II	1968			2,894,000	
Waubonsee Community College - Phase 1A Construction Library Complex, Technology Building & Power House Sugar Grove	1970	Edward Stauber	$ 3,700,000		$ 14,500
William Rainey Harper College - First Phase of Campus Buildings A, B, C, D, E, F Palatine	1967	M & F Builders Supply Elk Grove Village	12,722,613		50,570

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois School Building Commission					
Lake of the Hills Grade School District 300-2 Algonquin - Kane County	1963	Nicholson Hardware		$ 144,289	$ 2,790
Prairie Jr. High School District #126 Alsip - Cook County	1968	Ken-Lee Hardware Co.		313,157	6,077
Edgar Allen Poe District 21-2 Arlington Heights - Cook County	1968	Ken-Lee Hardware	$ 615,821		9,500
Construction of New Elementary School District #8-2 Bethalto - Madison County	1967	Mechanics Planing Mill, Inc.	258,738		3,378
Wilkins Elementary School District #109-3 Bridgeview - Cook County	1966	Mt. Vernon Building		365,447	6,400
South East Elementary School District #109 Bridgeview - Cook County	1960	Great Lakes Supply Corp.	153,645		1,800
Bridgeview School & Frank Brodnicki School - Addition District 109 Bridgeview & Justice Cook County	1962	Great Lake Supply Corp.	311,404		3,800

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois School Building Commission (continued)					
Buffalo Grove Elementary School District #96-1 Buffalo Grove - Lake County	1970	Edw. Stauber Hardware		$ 492,291	$ 7,315
Byron Elementary School District #226 Byron - Winnebago County	1963	Ray-Wharton Hardware Co.		239,979	2,875
Penniman Elementary & Huffman Elementary District #187-2 Cahokia - St. Clair County	1960	United Lumber Co.	$ 469,738		3,330
Penniman School & Huffman Schools District 187-2 Addition Cahokia - St. Clair County	1961	Melcher-Schene Hardware & Lumber Co.	152,938		1,417
Schrum Memorial School Addition District #157 Calumet City - Cook County	1961			141,269	1,600
Everett Dirksen Jr. High School District 149-4 Calumet City - Cook County	1966	Standard Equipment & Supply		346,910	6,887
Emerson School Cairo - Alexander County	1966	Vredenburgh's		250,454	3,017
Unity Point School District #140-1 Carbondale - Jackson County	1966	F. E. Holmes & Son Construction Co.		133,453	4,456

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois School Building Commission (continued)					
Meadowdale Elementary School - Addition District 300-2 Carpentersville McHenry County	1962	Clark & Barlow		$ 125,395	$ 1,800
West Dundee Elementary School & Kings Road Elementary School District #300-3 Carpentersville Kane County	1964	Howell Hardware/Edw. [illegible]uber Hardware		269,233	4,808
Golf View & Kings Road Schools District #300-1 Carpentersville Kane County	1959			435,891	11,000
Cave-In-Rock School District 100-2 Cave-In-Rock Hardin County	1962	Melcher Schenz Hardware		110,189	2,941
Harnew Elementary School - Addition District #122-2 Chicago - Cook County	1959	Fenestra			
New Elementary School District #17 Cobden - Union County	1966	F. E. Holmes & Const. Co.		155,831	5,139

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois School Building Commission (continued)					
Columbia Community Unit School District #4 Columbia - Monroe County	1968	Empire Bldg. Products	$1,452,518		$ 15,375
Southwood School District #160-4 Unit "B" Addition Country Club Hills Cook County	1967	Great Lakes Supply Corp.	98,861		730
Country Club Hills Elementary School District 160 Country Club Hills Cook County	1960	Standard Equipment & Supply	157,128		1,650
Country Club Hills North Elementary School District #160 Country Club Hills Cook County	1970	Standard Equipment Hammond, Indiana	274,401		3,100
NOB Hill School District #144-3 Country Club Hills Cook County	1970	Verbeeren's Hardware	462,765		4,000
Turner School District 143-1/2 - 2 Crestwood - Cook County	1961	Schuham Hardware Co.	87,192		480

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois School Building Commission (continued)					
Pos n-Robbins Elementary School (Turner School) District #143-1/2 Crestwood Cook County	1960	Howell Hardware Co.	$ 128,105		$ 1,350
Crete-Monee Jr. High Unit 3 District 201-U-2 Crete - Will Country	1963	Crete Lumber & Supply		$ 95,555	1,632 (includes rough lumber)
Crete-Monee Jr. High Unit II District #201-U Crete - Will County	962	Architectural Hardware Co.		228,600	3,150
Elizabeth Ide Elementary School District #66 Downers Grove DuPage County	1970	M-F Builders Supply Company	611,053		11,000 (includes hollow metal doors)
Park Lane Manor School District #187-3 East St. Louis St. Clair County	1962	Melcher-Schene Hardware & Lumber Co.	333,996		5,000

ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois School Building Commission (continued)					
Laramie Jr. High School Unit "A" District #142-2 Forest Ridge Cook County	1966	Verbeeren Hardware Co.	$ 177,818		$ 1,087
Upper Grade Elementary School Building District #142 Forest Ridge Cook County	1961	Sheldon Hardware	236,794		2,169
New Jr. High School for DuPage County District #16 Glendale Heights DuPage County	1967	Ken-Lee Hardware Company		$ 435,805	13,900
Glen Hill School & Americana School District 16 Glendale Heights Cook County	1963	Edward Hines Lumber Co.	255,660		6,380
Pope County Elementary School District #1 St. Colconda - Pope County	1970			331,423	
Woodlawn School - Addition District 152-1/2 2 Hazel Crest - Cook County	1960	Circle Hardware	75,977		845

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois School Building Commission (continued)					
Hazelcrest Highlands Elementary School District #144-2 Hazelcrest - Cook County	1962	S&S Hardware	$ 235,024		$ 3,775 (includes frames)
Pottawatomie School District 144-1 Hazel Crest - Cook County	1960	Root Bros. Mfg. & Supply	157,538		2,200
Neil A. Armstrong School District 54-3 Hoffman Estates Cook County	1970	Ken Lee Hardware Company	616,153		8,540
Community Consolidated Project Grade School Building District #259 Hopkins Park Kankakee County	1959	Gustafson & Steele Hardware Inc.	399,450		3,450
North Elementary School Pembroke Community Consolidated School District #259 Hopkins Park Kankakee County	1965	Talsma Builders Inc.		$ 124,135	1,450
Quentin School - Addition District #95-1 Lake Zurich - Lake County	1968	Architectural Hardware	146,150		3,165

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois School Building Commission (continued)					
Fairmont Elementary School District 89 Lockport - Will County	1960	Gustafson & Steele	$ 116,170		$ 875
Shirley Forbes Elementary School 152-1/2 2 Markham - Cook County	1963	Architectural Hardware & Supply	170,253		1,725
Bel-Aire-Ernest Elementary School District #143-1/2 2 Markham - Cook County	1962	Standard Equipment	163,134		2,014
Central Park School District #143 Midlothian - Cook County	1961	Fenestra Inc.	134,162		12,000 (includes steel sash, aluminum panels & accessories
Meridian Community Unit School District 101 Mounds - Pulaski County	1966	Mt. Vernon Bldg. Specialty		$607,625	10,000
Lee St. School District #26 Mount Prospect - Cook County	1964	Architectural Hardware & Supply	162,698		2,853
Summerville School District #79 Mount Vernon Jefferson County	1965	East Side Lumber		75,349	2,500

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois School Building Commission (continued)					
Indian Ridge School District #27 Northbrook - Cook Co.	1963	Midwest Hardware	$ 185,722		$ 3,450
Jack Hille Elementary School District #142 Oak Forest - Cook Co.	1971	Standard Equipment	465,430		4,850
Arbor Park Elementary School District #148-2 Oak Forest - Cook Co.	1967	Standard Equipment Co.	226,739		3,865
Scarlet Oak School District #145 Oak Forest - Cook Co.	1964	Circle Hardware	172,474		2,200
Orland Park Elementary School District #135 Orland Park - Cook Co.	1969	Edward Stauber Hardware, Inc.	294,033		5,200
Oak Ridge Elementary And Glen Oaks Elementary Schools District 117-5 Oak Lawn - Cook Co.	1971	Circle Hardware Co.	631,307		12,000
Oak Ridge School (Elementary) District #117-1 Oak Lawn - Cook Co.	1958	Root Brothers Manufacturing and Supply Company			2,250

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois School Building Commission (continued)					
Brandt School (Addition) District #123 Oak Lawn - Cook County	1959	Advance		$ 128,373	$ 905
John Foster Dulles School District #111 Oak Lawn - Cook County	1960	Fenestra, Inc.		285,943	41,300 (includes windows, curtain walls, doors & frames)
Egyptian Community Unit District #5 Olive Branch - Alexander	1966	Mt. Vernon Builders Specialty		719,632	7,000
Winston Churchill School District #15-4 Palatine - Cook County	1966	Schuham Hardware	$ 350,147		3,392
Palos Park Junior High District #118-1 Palos Park - Cook County	1969	Circle Hardware	529,093		7,750
PawPaw Grade School District #271-2 Rehabilitation of School PawPaw - Lee County	1959	Barrett Hardware Joliet, Illinois	57,003		500

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois School Building Commission (continued)					
Norwood School District #63 Peoria - Peoria County	1962	S. & S. Builders Hardware	$ 114,907		$ 2,300 (includes door frames)
Grade School District #88 Plano - Kendall County	1964	Midwest Hardware	274,911		3,290
Additions to Plainfield High School & Crystal Lawn District 202-1 Plainfield - Will County	1959	Schuham Hardware Company	298,885		2,800
Posen-Robbins Elementary School (Ziebell School) District 143 1/2 Posen - Cook County	1960	Sheldon Hardware	73,589		875
Prospect Heights Elementary School District #23-1 Prospect Heights - Cook County	1968	Illini Hardware Corp.	422,201		5,500
Addition to the Keller Elementary School District 143 1/2 Robbins - Cook County	1961	Standard Equipment & Supply Corp.	141,074		1,630

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois School Building Commission (continued)					
Kellar School District 143 1/2-2 Robbins - Cook County	1967	Verbeeren's Hardware	$ 76,936		$ 2,362
Rolling Meadows Public School #5 District 15-3 Rolling Meadows - Cook Co.	1960	Door Hardware Specialists	277,058		3,595
Central Rd. Elementary School District 15-3 Rolling Meadows - Cook Co.	1960	Gusfatson & Steele Hardware	206,024		2,665
Elementary School Building for Cook County District #78 Rosemont - Cook County	1960	Sheldon Hardware		$ 82,046	1,593
Nathan Hale Elementary School #54-2 Schaumberg - Cook County	1968	Ken-Lee	687,324		8,600
Kirby McIntosh School Addition District #140-2 Tinley Park - Cook County	1962	Midwest Schuham Hardware Co.	161,408		2,340
Tinley Park Elementary School District #140 Tinley Park - Cook County	1967	Verbeeren's Hardware	303,094		4,831

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois School Building Commission (continued)					
New High and Junior High School District #100 Ullin - Pulaski County	1963	W. F. Snyder		$ 175,468	$ 883
Dwight D. Eisenhower Junior High School for Lace-Marion Hills District #61 Westmont - DuPage County	1968	Architectural Hardware Supply		439,160	6,270
Mark Twain Elementary School District #21 Wheeling - Cook County	1967	Ken-Lee	81,005		897
Joyce Kilmer Elementary School District #21-1 Wheeling - Cook County	1967	Ken-Lee	$ 318,992		4,716
Euclid Avenue School District #26 Wheeling - Cook County	1960	Sheldon Hardware Co.		154,027	2,800
Franklin County School District #188 Zeigler - Franklin County	1965	Mt. Vernon Builders Specialty		118,066	2,700

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Mental Health					
Herman M. Adler Clinic Children's Research Center Building, Champaign, Illinois	1964		$ 516,642		
Herman M. Adler Clinic Champaign, Illinois	1964	Odman-Hecker Co., Inc. Urbana	1,722,102	$ 856,949	$ 10,780
Alton State Hospital, Alton, Illinois					
New Pasturizing Plant, Kitchen & Dining Building	1955		42,958	15,870	
Dining--Serving Addition to Locust Cottages	1956		64,648	36,570	
Medical Surgical Building	1963	Odman-Hecker	2,500,829	1,440,910	28,458
General Work for Fire Station	1964	Melcher-Schene Hardware St. Louis, Missouri	69,685	40,400	1,110
Rehabilitation of Cottages R.C.M. 1 & 2	1965	Melcher-Schene Hardware	354,591	234,069	5,395
Miscellaneous Building Rehabilitation	1965	Mechanics Planning Mill Edwardsville		101,235	1,445

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Mental Health (continued)					
Alton State Hospital (continued)					
Rehabilitation of Elm & Locust Cottages	1967	Mechanics Planning Mill Edwardsville	$ 793,490	$ 324,228	$ 8,390
Tuckpointing, Caulking, Window & Door Replacement, Bakery & Laundry Buildings	1967		59,724	50,746	
Water Reserviour	1967				
Rehabilitation of Sewing Kitchens, Maple, RCF & Spruce Cottages	1967	Henges Company St. Louis		62,127	1,800
Acute Hospital Treatment Facility	1968				
Central Dietary	1963	Melcher-Schene St. Louis, Missouri	1,262,419		6,675
Anna State Hospital, Anna, Illinois					
General Work for Further Replacement of Main Building - New Units 2 & 6 and Completion of Unit 3	1962	Belknap Hardware	2,052,489	1,516,699	22,723
Alterations to Toilet/Bath Rooms Athon & Lence Cottages	1966	A. C. Enterprises Benton		26,400	900
New Pumping Station	1966			59,114	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Mental Health (continued)					
Chicago State Hospital, Chicago, Illinois					
Work for Staff Cottages	1958		$ 113,043	$ 77,321	
Alterations to Kitchen & Dining Room, Ward Building CW-18	1959		39,863	14,288	
New Power Plant	1963	Howell Chicago	2,981,488	749,592	$ 935
Alteration to Building CW-17	1964	Superior Hardware		77,115	495
Addition to Central Dietary Facility	1964	Howell Chicago	438,014	257,802	2,750
General Work for Psychiatric Nurses Training School & Living Quarters	1965	Midwest Hardware Chicago	1,180,849	740,650	9,750
Medical Surgical Building	1965	Howell Hardware Chicago	4,000,506	1,914,217	71,664
Diagnostic Building - New Court Room & Judges Chamber	1966	Howell Hardware Chicago		19,925	825
Garage, Storage & Repair Building, Clothing Center, Employee's Cafeteria	1967	Root Bros. Manufacturing Company	928,342		3,675
Rehabilitation of Building CW-6	1967	Midwest Hardware	36,725		1,200

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Mental Health (continued)					
Chicago State Hospital, Chicago, Illinois (continued)					
Rehabilitation Center - Building No. 27	1967	Circle Hardware	$ 303,326	$ 172,458	$ 3,290
Window Guards for Diagnositc Building	1967			12,155	1,000
Rehabilitation of Toilet Rooms	1968	Midwest Hardware		200,532	2,650
Children's Services Building - Hospital Clinic, Chicago, Illinois	1964	Midwest Hardware Chicago		334,500	3,200
Dixon State School, Dixon, Illinois					
General Work Including Electrical & Mechanical for Half-Way House for Male Patients	1957		78,350		
New Laundry Addition	1963		211,255	110,339	
Cottages, CV-1, CV-2, CV-3	1962		128,691	56,486	
Occupational Therapy Center Development	1963	Circle Hardware Downers Grove	91,054	71,474	2,000

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Mental Health (continued)					
Dixon State School, Dixon, Illinois (continued)					
New Central Dietary Facility	1963	Circle Hardware	$ 1,460,223	$ 701,329	$ 8,000
Medical Surgical Building	1963	Circle Hardware Downers Grove	3,404,342	2,122,682	33,500
Alterations to Cottages A5, B5 & B9	1966	Circle Hardware Downers Grove	509,925	330,205	4,000
"A" Infirmary No. 1 and Cottage B-12	1966	Circle Hardware	610,536	301,110	5,685
Clinical Staff Building	1967			206,782	
Alterations to Cottages A4, B4, A7 & B7	1967	Circle Hardware	1,392,775	764,444	8,700
Corridors Connecting A & B Dining Rooms to Cottages A4, B4, A7, & B7	1968	Circle Hardware		129,629	3,200
Alterations to Employees Home	1968	Schingel Hardware	456,623	221,562	5,300
Addition to Occupational Therapy Building	1968	Edward Stauber Wholesale Hardware		494,195	6,828
A & B Dining Rooms	1968	Circle Hardware	590,829	241,935	5,000
New Power Plant	1970			641,061	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Mental Health (continued)					
East Moline State Hospital, East Moline, Illinois					
New Power Plant	1957		$ 837,365	$ 564,000	
New All Faiths Chapel	1963	Ollar Hardware Moline	272,580	195,402	
Partial Rehabilitation & Modernization of Main Building	1963	Ollar Hardware Moline	434,194	116,349	$ 8,410
General Work for Medical Surgical Building	1963	Ollar Hardware Moline	3,430,082	2,053,025	18,000
Adolescent Treatment Unit	1967	Ollar Hardware Moline	468,988	251,778	5,262
Rehabilitation of Present M & S Building for Activity Therapy Center	1967	Ollar Hardware Moline	683,711	347,304	7,880
Central Dietary, General & Mechanical Stores Building	1968	Ollar Hardware Moline	1,385,706	770,745	3,758
New Mechanical Shop & Garage Bldg.	1968	Ollar Hardware Moline	647,476	412,836	5,509
New Laundry Building	1968	Ollar Hardware Moline	896,516	354,488	1,235
Alterations to Taylor & Dix Cottages	1970	Ollar Hardware Moline	1,089,212	456,998	8,467

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Mental Health (continued)					
Elgin State Hospital, Elgin, Illinois					
Biochemical Research Lab	1958		$ 518,163	$ 196,337	
Medical Surgical Building	1964	Edward Hines Lumber Co. Chicago	3,768,395	2,413,048	
Miscellaneous Building Rehabilitation for Main & Annex Buildings	1964	M. F. Builders Supply		133,830	$ 1,734
Laundry Building	1966	M. F. Builders Supply	1,242,368	543,953	1,750
Miscellaneous Improvements	1967	Elgin Lumber & Supply Co.		90,174	8,620
Central Dietary Stores & Clothing Center	1967	Ezeet Bros. Hardware Chicago	2,189,789	1,084,353	
New Administration Building	1968	Midwest Hardware	978,607	599,310	5,695
Miscellaneous Building Rehabilitation Phase I	1970	Midwest Hardware		194,912	585
Galesburg State Research Hospital, Galesburg, Illinois					
Continuation of Rehabilitation of Buildings 142-146	1956		956,620	533,890	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Mental Health (continued)					
Galesburg State Research Hospital, Galesburg, Illinois					
Additions to Thubichum Psychiatric Research Lab	1958		$ 210,994	$ 82,900	
Modernization of Patients' Residential Units	1963	Clausen Hardware Co.	927,975	626,800	$ 17,422
Addition to Central Dietary Facility	1964	Ollar Hardware Moline	382,936	189,635	1,764
Miscellaneous Building Rehabilitation	1965	Galesburg Construction Co. Galesburg	371,394	303,129	300
Additional Lab Facilities	1965	Ollar Hardware Moline	384,064	163,954	2,150
Rehabilitation of "E" Row Bldgs.	1969	Mid-America Builders Supply	878,005		22,000
Hospital for the Mentally Retarded Near Harrisburg, A. L. Bowen Children's Center, Harrisburg, Ill.	1963		5,359,266	2,960,299	
Illinois State Psychiatric Institute, Chicago, Illinois					
Eleven Story Hospital	1956		8,187,056	4,259,524	
Laundry Building	1960		829,320	365,000	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Mental Health (continued)					
Illinois State Psychiatric Institute, Chicago, Illinois (continued)					
Conversion of 5th & 6th Floor Rooms to Surgical Wards	1961		$ 10,643	$	$
Modernization & Repairs	1967	Lowell Hardware Chicago		14,995	550
Institution for Mentally Retarded - Warren D. Murray Children's Center Centralia, Illinois					
	1962		11,401	4,616	
	1963		424	42,380	
Ward Buildings Nos. 5, 6 & 7	1963			1,438,000	
Jacksonville State Hospital, Jacksonville, Illinois					
Psychiatric Nurses Training School & Living Quarters	1960		658,227	447,851	
Remodeling for Infirmary Area - Diagnostic Building	1963	Vredenburgh Lumber Co.		10,300	250
Patient Service Center	1963	Colterman & Sabo St. Louis, Missouri	301,679	201,328	1,600

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Mental Health (continued)					
Jacksonville State Hospital, Jacksonville, Illinois (continued)					
Laundry Building	1963	Goltermann & Salbo St. Louis, Missouri	$ 926,880	$ 411,032	$ 1,700
Modernization & Rehabilitation of Portions of Buildings Nos. 31 and 38	1966	Schlitt Supply Company Springfield	277,437	117,800	
Rehabilitation of Infirmaries 2, 3 & 4	1966	Vredenburgh Lumber Springfield		72,319	3,069
Activities Therapy Building, Central Dietary, Mechanical Shops & Garage	1967	Vredenburgh Lumber Springfield	2,671,608	1,260,836	8,449
Kankakee State Hospital, Kankakee Illinois					
New Central Dietary Facility	1957		1,340,326	610,646	
Addition to Central Dietary Facility	1958		206,675	173,800	
Modernization & Major Repairs to Correct Fire & Public Hazards Buildings Nos. 14 - 15N & B1-2-3 North	1963	Swannell Hardware Company Kankakee	996,346	702,745	
Modernization, Building 10 South	1963	Security Lumber & Supply Bradley		-	
Laundry Building	1963		801,403	257,100	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Mental Health (continued)					
Kankakee State Hospital, Kankakee, Illinois (continued)					
All Faiths Chapel	1963		$ 302,374	$ 204,262	
Rehabilitation, Building No. 12-S	1964	Security Lumber & Supply		265,476	$ 3,800
Relocation & Remodeling, X-Ray Dept.	1965	Howell Hardware Co.			
Rehabilitation of Commissary	1965	Security Lumber & Supply			
Alteration to Power Plant & Miscellaneous Buildings	1965	Curries, Inc. Davenport, Iowa			
Modernization to Correct Fire & Health Hazards, Phase II, Bldg. 10-S	1966	Security Lumber Co. Bradley		176,001	4,150
Rehabilitation of Ward No. 8 North	1965	Security Lumber & Supply Co. Bradley	424,284	262,517	2,900
Gymnasium Building	1966	Howell Hardware Co.	643,072		6,947
Rehabilitation Ward 1 North	1966	Odam-Hecker Champaign	512,026	373,710	4,695
Rehabilitation of Auditorium Bldg.	1967	Security Lumber & Supply Co.		169,584	2,365
Four New Residence Ward Bldgs.	1968	Security Lumber & Supply	3,946,778	2,126,400	
Four New Residence Ward Bldgs.	1968		239,403	99,100	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Mental Health (continued)					
Lincoln State School, Lincoln Illinois					
Replace Unit No. 1 for Girls Cottage & Annex	1962	Wilson Hardware Quincy	$ 1,561,937	$ 877,895	$ 7,744
[illegible]ivities-Therapy Building	1963		1,268,554	720,285	
Central Dietary Facility	1963		1,089,932	440,313	
General Stores Building	1963		552,995	360,800	
Security Patient Residential Unit	1963		1,034,761	584,995	
Replacement No. 2 Girls Cottage & Annex	1964		1,394,307	863,760	
Conversion of the Bakery Building to a Clothing Center	1966	Schinnel Hardware		76,502	1,530
Mechanical Improvements & Building Rehabilitation	1966	Black & Co. Springfield		476,589	1.676
New School Building - Farm	1968		681,587	458,900	
Andrew McFarland Clinic Springfield, Illinois					
	1965	Schlitt Supply	7,520,633	3,505,106	52,665
New Garage Building	1967	Schlitt Supply		75,208	1,244

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Mental Health (continued)					
John J. Madden Clinic, Hines, Illinois					
Administration Building; Basement	1963	Mid[illegible] Hardware Co. Chicago			
Administration Building	1963	Mid[illegible] Hardware Co. Chicago			
Service Building	1963	Mid[illegible] Hardware Co. Chicago			
303A Zone 3 - South Side	1964	Mid[illegible] Hardware Co. Chicago	$ 6,554,403	$ 3,861,430	$ 54,350
Pavilion Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12; Connecting Link Between Pavilion Passages 1, 2 & 3		Mid[illegible] Hardware Co. Chicago			
Manteno State Hospital, Manteno, Illinois					
Rehabilitation of Central Dietary Facility	1957		305,619	113,700	
Laundry Building	1963	Mid[illegible] Hardware Co. Chicago	1,989,287	628,483	1,395
Addition to Carriel Patient Residential Unit	1963		344,701	235,520	

ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Mental Health (continued)					
Manteno State Hospital, Manteno, Illinois (continued)					
Rehabilitation of Central Dietary Facility - Final Phase	1963	[illegible] Supply		$ 71,730	$ 825
Patients Service Center	1965	[illegible] Supply	$ 327,921	147,826	2,154
Miscellaneous Building Rehabilitation	1966	[illegible] Hardware Co.	541,120	223,500	
Dining Room [illegible] Buildings	1967			1,211,960	
Modernizati[illegible] of [illegible]atient Residential [illegible]	1968		306,183	114,875	
Employee's Central Dining Room Building	1969	[illegible] Supply	1,247,215		5,800
Mental Health Center, Chicago, Illinois					
Remodeling of Main Building	1967	[illegible] Hardware Co. Chicago		22,046	600
Adolph Meyer Clinic Decatur, Illinois	1964		5,780,836	3,062,910	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Mental Health (continued)					
Peoria State Hospital, Peoria, Illinois					
Rehabilitation of General Kitchen	1963	Schlitt Hard... Springfield			$ 2,146
General Work for Correction of Fire, Health & Safety Hazards, 2-3-4-5-6-7-8-9C; 1-2-6-7B; Zeller Lab	1963	S & S Builde... Peoria	$ 973,450	$ 430,019	7, 34
Addition t... an Hall	1964	S & S Builde... Peoria	799,587	575,549	9,50
Mechanical Shop & Garage Building	1965	S & S Builde... Peoria		278,456	3,370
Assembly Hall Building	1965	S & S Builde... Peoria		213,100	3,930
Rehabilitation of Bowen Residence	1965	Odman-Hecker Morton	530,671	224,586	8,000
Rehabilitation of Commissary Bldg.	1967	S & S Builde... Peoria		202,052	1,500
Charles F. Read Clinic, Chicago, Illinois					
Inpatient Ward Complex	1963	Edward Staub... ...are	6,531,285	4,164,400	58,000

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Mental Health (continued)					
H. Douglas Singer Clinic, Rockford, Illinois					
General Work	1964	Hall Hardware, Madison, [illegible]	$ 7,034,309	$ 3,912,200	$ 41,000
State Medical Center, Chicago, Illinois					
Physical Plant Building	1968	Howell Hardware, Chicago		884,861	11,284
Tinley Park State Hospital, Tinley Park, Illinois					
Acute Hospital Building	1956		2,811,095	1,657,423	
Acute Hospital Building (Sight Work & Utilities)	1956			363,792	
Employee's Building	1956		699,193	425,054	
Incinerator Plant	1956		91,131	69,836	
Staff Housing Units	1956		401,780	279,985	
Staff Apartment House	1956		350,481	258,700	
Laundry, General Stores Building	1956		537,733	272,167	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Mental Health (continued)					
Tinley Park State Hospital, Tinley Park, Illinois (continued)					
Patients Residential Unit No. 2	1963	Midwest [illegible] Chicago	$ 928,802	$ 543,420	$ 19,700
General & Mechanical Stores Bldg.	1963	Ken-Lee [illegible]	635,481	377,378	
General Work for Recreation Center	1963	Ken-Lee [illegible]	749,023	377,938	8,760
General Work for Administration Building	1963	Ken-Lee [illegible]	742,209	316,478	3,000
Intensive Treatment Building	1963	Ken-Lee [illegible]	2,520,318	1,582,703	20,116 (excluding $3,154 for tagging and distribution)
General Work to Diagnostic Hosp.	1964	Ken-Lee [illegible]	2,199,805	1,341,695	34,920
Patient Residential Unit No. 1	1964	Ken-Lee [illegible]	1,194,929	730,492	12,000
Intensive Treatment Center		Ken-Lee [illegible]		1,582,703	20,116
George A. Zeller Clinic Peoria, Illinois	1965	Associated [illegible] Peoria	6,423,035	3,406,744	50,221

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Department of Public Health					
Chicago Branch Laboratory Chicago					
Chicago Unit of Toxicology Laboratory Service	1961		$ 73,951	$ 36,700	
Department of Public Health Chicago					
Chicago Medical Center Laboratory and Office Building	1968	Howell H[illegible]	5,250,412	2,749,274	$ 25,560
Illinois Childrens Hospital School Chicago					
General Work	1963	Howell H[illegible] Chicago	2,962,460	1,717,142	33,300
Illinois Security Hospital Chester					
South Addition for Additional Office Space - Administrative Area	1958		13,694	7,513	
General Work Including Mechanical & Electrical Work for Medical Center Addition to Main Building	1959		125,246		

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Department of Public Health (continued)				
Illinois Security Hospital (continued)				
Alterations to Main Building	1966		$ 44,907	$ 700
Illinois State Pediatric Institute Chicago				
General Work	1958		43,334	
	1959	$4,431,963	2,429,000	
Laboratory & Miscellaneous Alteration Work	1963		67,498	140
Mt. Vernon State Tuberculosis Sanitarium Mount Vernon				
Addition to Sanitarium	1956	497,192	285,139	
New Illinois Eye & Ear Infirmary Chicago				
	1962	3,658,406	1,958,000	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Department of Public Health (continued)					
New Illinois Visually Handicapped Institute Chicago	1963		$ 1,230,139	$ 796,796	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Children and Family Services					
Illinois Braille & Sight Saving School Jacksonville					
Library Classroom Building & Student Dormitory Unit	1962		$ 883,351	$ 515,980	
Gymnasium Building	1963		228,659	151,737	
Rehabilitation of Toilet & Bathrooms - Grade School Girls & Kindergarten Girls Cottages	1964	Black & Co.		20,110	$ 1,288
New Exterior Doors, Buildings #2, #3, #4, #9 #15	1966	Vredenburgh Lumber Co.		14,246	2,634
New Mechanical Shops Building	1967	Vredenburgh Lumber Co.	136,040	78,679	1,291
New Administration Building	1969	Wilson Hardware	1,564,027	1,139,781	16,498
Illinois School for the Deaf Jacksonville					
Vocational Building	1956		474,590	306,699	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Children and Family Services (continued)					
Illinois School for the Deaf (continued)					
Dormitory - Classroom Building	1964	Rosell Hardware Chicago	$ 911,612	$ 626,009	$ 12,300
Central Dietary Facility	1964	Schlitt Supply	936,718	514,735	7,400
New Closet Doors & Frames - Boys Dormitory	1965	Vredenburgh Lumber Co.		19,700	1,600
New Power Plant & Mechanical Shops Building	1968			374,725	
Illinois Soldiers' & Sailors' Children's School Normal					
Garage Building	1964	Vredenburgh Lumber Co. Springfield		44,688	600
New Girls Dormitory	1967	Mathis Lumber Co. Morton	1,254,667	871,590	18,966

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Fini... S...	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Children and Family Services (continued)					
Illinois Soldiers & Sailors Home Quincy					
Laundry Building (No. 89)	1963			$ 198,049	
Dormitory Unit for Resident Members (Men) (No. 90)	1963	Black & Co.		513,265	$ 2,775
Central Dietary Facility (No. 92)	1963			503,231	2,880
Medical Surgical Building	1963	Black & Co.		642,093	9,136
Residential Unit & Infirmary for Womens Building (No. 94)	1963	Black & Co.		562,703	10,288

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Armories					
One Unit Armory Effingham	1956		245,405	171,700	
One Unit Armory Frankfort	1956		234,380	151,634	
One Unit Armory Freeport	1956		273,513	189,242	
Galesburg Armory - Fire Damage Repair & New Weapons Vault Galesburg	1969	Allar H[illegible] Company Moline			
One Unit Armory Litchfield	1956		258,174	176,160	
Armory Springfield					
Office Building - New Fire Exit Stairway	1968	Black & [illegible] Spring[illegible]		100,088	2,198
Military & Naval Department New Fire Exit Stairways	1968	Black & [illegible] Spring[illegible]			
Civil Defense Agency Headquarters - Emergency Operating Center	1967	Black & [illegible] Spring[illegible]		51,887	1,672
Department of Correction Second Floor	1970	Black & [illegible] Spring[illegible]		39,056	2,500

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Armories (continued)					
Armory Springfield (continued)					
Department of Public Safety - Remodel Fifth Floor	1964	Bland & Company Springfield		$ 13,489	$ 670

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Corrections					
Illinois Youth Commission Dixon Springs					
New 60 Boy Forestry Camp at Dixon State Park	1963		$ 409,941	$ 240,820	
State Reformatory - Women - Dwight					
Sewage Disposal Plant	1963			56,842	
Central Dining Hall, Kitchen, Security Buildings	1964	Fred Scherer, Inc. Ottawa		575,476	$ 9,100
Illinois State Training School for Girls Geneva					
Additions & Alterations to Present School Buildings	1956		237,437	137,750	
General & Mechanical Storage Building	1956		224,112	153,995	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Corrections (continued)					
Illinois State Training School (continued)					
Master Keying System for All Buildings	1957		$ 29,787		
Adjustment Cottage	1957		258,391	$ 139,600	
Completion of Adjustment Cottage	1964	Howell Hardware Chicago	86,181	43,834	2,000
Main Entrance Gate House	1966	Central Supply Co.	25,879		$ 308

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplied	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Corrections (continued)					
Illinois Youth Commission Grafton					
Modernization of Forestry Camp at Fergerson Property	1965			$ 24,774	
Renovation & Modernization Work at Fergerson Farm	1968		$ 382,110	176,050	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Corrections (continued)					
Illinois Youth Commission Joliet					
Reception & Diagnostic Center Buildings	1956		$ 568,319	$ 334,800	
Reception & Diagnostic Center Building (Units 3 & 4)	1957		616,805	389,732	
Reception & Diagnostic Center - Additional Facilities for Gymnasium	1963		64,396	36,488	
Install doors in Dormitories - Reception & Diagnostic Center	1966	Howell Hardware Chicago		4,185	$ 700
Receiving Dormitory Building at Reception & Diagnostic Center	1966	Circle Hardware Co.	302,148		920
Receiving Dormitory & Dietary Facility Building	1966	Ollar Hardware Moline	712,871	456,657	9,600
General & Mechanical Stores Building - Reception & Diagnostic Center	1967	Architectural Hardware & Supply	465,924		1,465

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Corrections (continued)					
Illinois State Penitentiary Joliet					
Addition to Farm Dormitory	1961		$ 277,422	$ 162,900	
School - Chapel - Tank - Well - Refrigeration Equipment	1964			366,500	
State Crime Lab	1964	Fred Scherer, Inc. Ottawa	467,140	249,560	$ 4,075
Construction of Chapel & Classroom Building	1965	Howell Chicago	456,466	346,058	4,239
Stateville Branch - Cold Storage Facility Phase II	1966	Midwest Hardware Chicago	344,096	158,796	700
Stateville Branch - New Quarters Building for Officers	1968	M & F Builders Supply Elk Grove Village	1,001,338	592,113	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Corrections (continued)					
Illinois State Penitentiary Menard					
Chapel & Occupational Therapy Building	1964	United Lumber Co.	$ 334,016	$ 216,235	$ 1,500
Power Plant	1965			491,000	
New Industrial & School Building	1965	Black & Co. Springfield	768,202	528,292	7,778
Turbine Installation	1967			401,000	
Vegetable Preparation & Storage Building	1967	Jos. A. Jutzi, Inc.	114,790	57,586	285
Illinois Youth Commission Peoria					
Boy Forestry Camp	1967	S & S Builders Hardware	362,839	193,235	3,275

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Corrections (continued)					
Illinois State Penitentiary Pontiac					
New Cold Storage Plant - Old Power House	1960		$ 206,253	$ 106,435	
South Cellhouse	1964		2,421,099	1,643,000	
School Building	1965		261,732	172,912	
Construction of Administration Bldg.	1965		861,983	519,000	
New Officers Quarters Building	1968	Odman-Hecker & Co. Champaign	405,114	218,070	
Illinois Youth Commission - State Training School for Boys St. Charles					
Staff Dining Room & Recreational Center	1956		147,340	67,220	
Sewage Disposal & Power Plant	1965			265,800	
New Academic Building	1966	Root Bros. Mfg. Co. Chicago	1,024,286	713,435	$ 12,000

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Corrections (continued)					
Illinois Industrial School for Boys Sheridan					
Laundry Building	1956			$ 48,539	
Cold Storage & General Storage Addition to Present Building (Unit C-13)	1956			41,348	
Special Treatment & Building	1965		$ 249,385	180,080	
Construction of Administration Building & Security Building	1965	Ceco Corp.	193,399	130,629	$ 1,605
Vocational Educational Building	1966	Howell Hardware Co.	318,142		2,432
Valley View Training Center Valley View					
Renovation and New Residents Buildings A-B, C-D, E-F, G-H, J-K	1967	M & F Builders Supply Inc.			
One 300 Inmate Training School	1968			3,814,360	
Existing Building	1967	M & F Builders Supply			

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Corrections (continued)					
Illinois State Farm Vandalia					
New Maximum Security Building	1964	Howell Hardware Chicago	$ 182,107	$ 120,589	$ 466
New General Store Building	1965	Schingel Hardware	209,563	156,450	860
DuPage State Boys School Warrenville					
New Recreation Building	1967	Circle Hardware	123,690	33,656 (excluding $55,000 for prefabricated building)	1,500
Illinois State Penitentiary Vienna					
New Mimimun Security Institution - Main Building & Ward Building #1	1963		2,174,531	1,450,697	

ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Department of Corrections (continued)					
Illinois State Penitentiary (continued)					
Minimum Security Institution	1965			$1,044,437	
Completion of Buildings & Facilities Nos. 1 thru 7, 9A, 9B, 9C, 10A, 10B & 10C, 12, 15, 16 and access doors to all buildings	1968	Henges Co. of St. Louis	$11,728,179	6,056,091	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois State Police					
Conversion of Garage to Office Space Blue Island	1965	Ken-Lee Hardware		$ 14,440	$ 912
Miscellaneous General Work East Saint Louis	1963	Melcher-Scheme St. Louis		132,554	4,200
District #2 - New Headquarters Building Elgin	1962		$ 247,249	158,650	
District #10 Pesotum	1963	Odman Becker & Co. Champaign	248,370	170,452	2,600
District #8 - New Headquarters Building Peoria	1963		172,490	111,699	
District 1-A Headquarters Building Rockford	1960		79,511 (excluding heating & ventilating)	55,300	
State Police Headquarters District #7 Rock Island	1966	Howell Chicago		37,000	1,150

ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois State Police (Continued)					
Addition & Alterations District #7 Rock Island	1967	Howell Hardware Co.			
District #9 - Storage Building Springfield	1960		$ 78,704	$ 46,465	
District #9 - New Addition & Alterations Quartermaster Depot Springfield	1966	Black & Co.		30,100	$ 700
State Police Training Academy Springfield	1968	Mathis Lumber Co. Morton		421,535	6,834

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Division of Highways					
Alsip -					
Maintenance Storage Buildings	1968	Edward Hines Lumber Company Skokie		$ 322,426	$ 1,127
Arlington Heights -					
Storage Building & Related Improvements	1964	Midwest Hardware Chicago	$ 238,223	147,750	1,000
Belleville -					
Storage Building & Related Improvements	1963	Joseph Jutzi	177,445	131,674	287
Carbondale					
District 9, Equipment, Supply & Maintenance Storage Building	1963	A. C. Enterprises Benton	302,021	221,075	1,690
Champaign					
Garage, Storage Buildings & Related Improvements	1958		322,374	259,000	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Division of Highways (continued)					
Chicago -					
Garage, Laboratory Building	1959		$ 68,099	$ 27,789	
New Sign Shop, Equipment & Supply Storage Building			275,033	163,990	
General Work for Storage Buildings for Dan Ryan Expressway	1967	[illegible] Chicago		271,012	$ 875
Collinsville -					
New Truck Weighing Stations	1964	United Lumber Company St. Louis, Missouri		33,700	394
[illegible]cola -					
Storage Building & Related Improvements	1965	A. C. Enterprises		89,966	252
Dixon -					
District No. 2 - Addition & Alterations to Headquarters Office Building	1960		224,983	126,650	
East St. Louis -					
Additions & Alterations to Garage - Office Building	1955		372,041	210,900	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Division of Highways (continued)					
East St. Louis (continued) -					
District No. 8, Sign Shop & Storage Building	1955		$ 149,898	$ 112,200	
Effingham -					
Storage Building & Related Improvements	1965		404,483	314,890	
Elgin -					
District No. 1, New Sign Shop & Office Building Addition	1965	Howell Chicago	780,091	546,569	$ 3,800
Fairfield -					
New Garage Building	1965	Edward Hines Lumber Company Skokie		113,489	1,030
Godfrey -					
New Truck Weighing Station	1964	Henges Company St. Louis, Missouri		13,200	182
Hamel -					
Storage Building & Related Improvements	1964	Richards-Wilcox		74,645	600

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Division of Highways (continued)					
Ladd -					
Storage Building & Related Improvements	1963	Fred Scherer		$ 68,645	$ 175
Marion -					
New Weighing Stations	1969	A. C. Enterprises		58,689	400
Maryville -					
Storage Building & Related Improvements	1965	Fenges Company St. Louis, Missouri		132,988	780
Mason City -					
Storage Building & Related Improvements	1963	Black & Company Springfield		95,764	330
McCook -					
Southwest Expressway - Storage Building & Related Improvements	1965	Midwest Hardware Chicago		255,930	1,277
Moline -					
New Truck Weighing Stations	1964	Ollar Moline		27,390	620

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplied By	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Division of Highways (continued)					
Ottawa -					
New Sign Shop Building & Storage Facility	1964	[illegible] Stauber Peckman	$ 514,230	$ 332,400	$ 2,150
Ottawa -					
Highway District No. 3 - Additions & Alterations to Present Headquarters Building	1965	[illegible]d Scherer	441,012	238,595	5,000
Highway District No. 3 - Additions & Alterations to Office Building	1958		197,687	111,000	
Highway District No. 3 - Additions & Alterations to Present Highway Headquarters Building	1965	[illegible]d Scherer		106,000	1,600
Paris					
District No. 5 - Storage Sheds & Garage	1957		690,786	534,935	
District No. 5 - Office Building & Sign Shop	1956		943,939	501,935	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Division of Highways (continued)					
Rapids City -					
New Truck Weighing Stations	1966	Ollar Hardware Moline		$ 55,946	$ 1,900
Sherman -					
New Comfort Stations	1964	Black & Company Springfield		72,435	1,359
Springfield -					
District No. 6 - Additions, Alterations & Improvements to Existing Lab & Office Building	1960		$ 357,966	190,000	
District No. 6 - Sign Shop Building	1962		321,484	211,600	
Administration Building	1968	Schlitt Supply		4,044,158	34,995
Alterations to Garage Building	1964	Vredenburgh Lumber Company		682	1,000
Boiler Room Addition to Lab & Garage	1967	Vredenburgh Lumber Company		40,563	226
Storage Building & Related Improvements	1965	Black & Company Springfield		100,983	908

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Division of Highways (continued)					
Sullivan -					
Storage Building & Related Improvements	1965	Edward Hines Lumber Company Skokie		$ 92,793	$ 295
Sycamore -					
Maintenance - Storage Building	1964	Howell Chicago		87,660	575

ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Parks, Conservation Areas & Waterways					
State Water Survey - Addition to Water Resources Building Champaign	1965	Hardware Supply Company		$ 315,212	$. 3,992
Irrigation Channel & Pumping Station - Rice Lake Conservation Area Fulton County	1968	Pittsburgh DesMoines		215,654	2,100
Pere Marquette State Park Addition of Rooms in South Wing, Lodge Building Grafton	1958		12,245		
Beall Woods & Jasper Co. Conservation Area - Standard Shop & Equipment Building Jasper County	1966	Ray Potts & [illegible] Reid		15,785	355
Division of Waterways - Office & Shop Addition Joliet	1960		63,819	42,629	
Red Hills State Park General Work for Standard Shop & Equipment Building Lawrence County	1963	Ray Potts		14,823	150
Lincoln's New Salem State Park Camp Utility Building Menard County	1964	Vredenburgh [illegible]	22,679		670

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Parks, Conservation Areas & Waterways (continued)					
Starved Rock State Park Assembly Room Addition to Starved Rock Lodge Bldg. Utica	1958		$ 42,328	$ 30,200	
Starved Rock State Park Sewage Disposal System Utica	1964			183,000	
Department of Conservation Complete Work for Area Management Residence Washington County	1964	Rat[illegible] Brothers Hardware	19,052		$ 216
Illinois Beach State Park Additions & Alterations to Lodge Building Zion	1966	How[illegible] Hardware (Chicago)	585,248	343,828	$ 6,536

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois State Fairgrounds Springfield					
Replacement of Horse Barn No. 102	1967	Black & Company		$ 47,500	$ 1,400
New Office Facilities - Junior Livestock Building No. 30	1965	Schlitt Supply	$ 9,926		980
Feed & Fertilizer Building	1963	Schlitt Supply		50,900	800
Alterations to Emmerson Building Annex - Division of Meat & Poultry Inspection			82,073	31,445	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Court Buildings					
Second Appelate Court Elgin	1965			$ 914,785	
Appellate Court Building Fifth District - Rehabilitation Mt. Vernon	1966	Schingel Hardware		146,666	$ 1,632
Appellate Court Building Addition Mt. Vernon	1968	Lensing Wholesale, Inc.			
New Office Building for Attorney General Springfield	1968	Ken Lee	$ 2,185,660	1,383,223	13,500

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Miscellaneous Buildings					
Mine Rescue Station & Lab Building Benton	1968	Mt. Vernon Builders Specialty Company		$ 7,674	
Regional Office Building General Work Champaign	1967	Howell Chicago	$ 1,665,711	834,179	$ 8,850
Institute of Juvenile Research - Miscellaneous Improvements Chicago	1964	Midwest Hardware		5,082	190
Lawndale Day Care Center Remodel Existing Building Chicago	1965	Schuham Builders		32,823	2,000
Department of Labor - Bureau of Employment Security Alterations to Various Sites Chicago	1967	Howell Hardware Company		83,243	1,232
State of Illinois Building Chicago					
Remodeling of 11th through 20th Floors	1964				
Dept. of Mental Health Alterations to 15th Floor	1965	Midwest Hardware Company Chicago		6,167	325
Electrical Work in Extension of High Voltage Wiring - 11th to 20th floors	1965	Midwest Hardware Company Chicago		39,440	2,345

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Miscellaneous Buildings (continued)					
State of Illinois Building Chicago (continued)					
Air-Conditioning of 15th, 19th & 20th Floors	1966	Midwest Hardware Company Chicago			
U.S. Grant's Home - Public Toilet Facility Galena	1963	Allen Hardware Galena		$ 29,342	$ 600
A.R. Bowen Childrens Center Water Damage to #40B Building & Miscellaneous Harrisburg	1968	Olson - Becker Champaign		3,076,531	51,391
Southern Illinois Children's Service Center - Classroom & Playroom Addition Hurst	1965	A.C. Enterprises Benton		49,760	1,277
Museum of the Illinois Indian - Dickson Mounds Lewiston	1968		$ 1,632,772	1,057,000	
Regional Office Building Peoria	1968		1,069,805	592,725	
Regional Office Building Rockford	1968		1,113,223	595,748	
Regional Office Building Springfield	1968	Black & Company Springfield	917,333	497,931	

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ILLINOIS - APPENDIX "A"

Project Name and Address	Date Of Construction	Finish Hardware Supplier	Cost Of All Construction	Cost Of General Work	Cost Of Finish Hardware
Illinois Miscellaneous Buildings (continued)					
State Museum & Related Improvements Springfield	1960		$ 1,789,373	$ 978,367	
Department of Public Works & Buildings Administration Building Springfield	1965		8,551,807	4,024,100	
Old Capitol Reconstruction Historical Library & Underground Parking Garage Springfield	1967	Schlitt Supply Company		3,632,914	$ 18,222
State Capitol Building Springfield					
New Press Fac. & Remodeling for Senate Offices, Ref. Bureau & Nurses Station	1967	Black & Company Springfield		22,000	525
House of Representatives Remodel Rooms	1964	Schlitt Supply Company		103,265	1,300
Department of Mental Health Mail Room and Duplicating Facilities to 4th Floor State Office Building Springfield	1967	Black & Company Springfield		13,348	420
Department of Law Enforcement Fire Training Building Urbana	1965			47,381	

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UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

IN RE:	M.D.L. DOCKET NO. 45
MASTER KEY ANTITRUST LITIGATION	ALL CASES

STATE OF ILLINOIS, Plaintiff, v. EATON, YALE & TOWNE, INC., et al., Defendants.	CIVIL ACTION NO. 15,262

NOTICE OF FILING

PLEASE TAKE NOTICE that we have this date mailed to the Clerk of the Court for filing Supplemental Answers of the State of Illinois to Defendants' First Set of Interrogatories (Nos. 5, 7 and 9), a copy of which is attached hereto.

DATED: October 24, 1974

LEE A. FREEMAN, JR.
One of the Attorneys for Plaintiff

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(312) 467-6540

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served the above notice, together with the document referred to therein, by mailing a copy thereof to all defense counsel, this 24th day of October, 1974.

LEE A. FREEMAN, JR.

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

IN RE:	M.D.L. DOCKET NO. 45
MASTER KEY ANTITRUST LITIGATION	ALL CASES

STATE OF ILLINOIS,

Plaintiff,

v.

et al.,

Defendants.

SUPPLEMENTAL ANSWERS OF THE STATE OF ILLINOIS TO DEFENDANTS' FIRST SET OF INTERROGATORIES (NOS. 5, 7 and 9)

The State of Illinois, by its attorneys, submits the following supplemental answers to Interrogatories 5, 7 and 9 of Defendants' First Set of Interrogatories.

Plaintiff reserves the right to correct, amend and supplement these answers as additional information and documents become available.

Interrogatory 5:

State whether, during the period covered by these Interrogatories, you purchased builders hardware from a person other than those identified in your answers to Interrogatories 3 and 4, and if your answer is in the affirmative, provide as to each purchase the same information as is requested in Interrogatory 4(a) through 4(j), inclusive.

Interrogatory 7:

Identify by name and location each structure owned by you at the present time or at any time for which these Interrogatories apply in which a master key system was installed, and with respect thereto state:

(a) Whether the structure constituted or included:

(i) Dwelling houses;

(ii) Apartment buildings;

(iii) Office buildings;

(iv) School buildings;

(v) Other buildings or structures of any kind, specifying the kind of structure;

(b) The brand name or brand names of the master key system or component parts thereof installed in the structure;

(c) The identity of the person or persons who made the decision to install such a system;

(d) The identity of the person or persons who prepared the builders hardware specifications;

(e) The identity of the person or persons who made the decision as to which brand or brands of cylinders and/or locksets would be specified and/or approved;

(f) The identity of the person or persons who made the decision as to which brand or brands of door closers and fire exit bolts would be specified and/or approved;

(g) The brand name or brand names of cylinders and/or locksets which were permitted by the specifications to be provided on said structure;

(h) The brand name or brand names of door closers and fire exit bolts which were permitted by the specifications to be provided on said structure; and

(i) The person who purchased or contracted for the purchase of the master key system or component parts thereof, and the door closers and fire exit bolts thereof, and the relationship of such person to you.

Interrogatory 9:

If you identified any structure in answer to Interrogatory 7 and you had constructed or caused the structure to be constructed, state as to each such structure:

(a) The name and address of the general contractor for the structure and the date on which construction was completed;

(b) The total cost of the structure to you;

(c) Whether you had a contract with the seller which fixed the price paid by you pursuant to a pre-existing cost-plus or fixed markup arrangement, and if so, state the terms of such agreement;

(d) Whether the cost was broken down so as to set forth separately the price of the master key system or any component part thereof or any of the hardware installed on or in connection with the doors in the structure;

(e) If your answer to (d) above is in the affirmative, state:

(i) The price of the master key system and/or any component part thereof; and

(ii) The price of the hardware installed on or in connection with the doors in the structure; and

(f) Whether the contract price of the structure was determined by public bidding.

Supplemental Answers to Interrogatories 5, 7 and 9:

The State of Illinois and its public agencies have constructed numerous public buildings in which master key systems have been installed. In Supplemental Appendix "A", plaintiff has set forth the following information (where available) with respect to such buildings:

(1) project name and address;
(2) date of construction;
(3) finish hardware supplier;
(4) cost of all construction and/or the general work; and
(5) cost of finish hardware.

The information set forth in Supplemental Appendix "A" has been compiled from records and information supplied by the agencies and institutions. These records consist principally of:

(i) bid tabulation sheets for all construction and/or for the general work;
(ii) lists of approved suppliers which identify the finish hardware suppliers;
(iii) general contractors' payout applications and affidavits which show the supplier and cost of finish hardware as a line entry as well as the cost of all work covered by the general contract;
(iv) general contractors' contract breakdown sheets;
(v) hardware specifications;

(vi) hardware schedules which name the finish hardware supplier, list the finish hardware brands used, and provide master keying information.

Pursuant to Rule 33(c), defendants may inspect the records used in preparing Supplemental Appendix "A", which have been assembled in the offices of plaintiff's counsel at One IBM Plaza, Chicago, Illinois 60611.

[redacted]

FREEMAN, FREEMAN & SALZMAN
One IBM Plaza - Suite 3200
Chicago, Illinois 60611
(312) 467-6540

DATED: October 24, 1974

STATE OF ILLINOIS)
) SS:
COUNTY OF C O O K)

LEE A. FREEMAN, JR., being duly sworn, deposes and says that he is one of the attorneys for the State of Illinois; that the information set forth in the foregoing supplemental answers of Illinois to defendants' first set of interrogatories was compiled by him from construction project records and information provided by employees of Illinois; and that the answers to these interrogatories are true to the best of his own knowledge, information and belief.

LEE A. FREEMAN, JR.

Subscribed and Sworn to before me
this 24th day of October, 1974.

Notary Public

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Project Name and Address	Date of Construction	Finish Hardware Supplier	Cost of All Construction	Cost of General Work	Cost of Finish Hardware
Universities					
Eastern Illinois University Charleston					
Physical Education and Recreation Building - Phase I (Lantz)	1964-67		$	$ 1,603,198	$
Northern Illinois University De Kalb					
Residence Hall - Group # 1 - West Campus	1961	Uplands Hardware Corp., [illegible]		2,525,004	48,681
General Improvements	1964	Architectural Hardware Supply	92,104		1,208

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Project Name and Address	Date of Construction	Finish Hardware Supplier	Cost of All Construction	Cost of General Work	Cost of Finish Hardware
Junior Colleges					
John A. Logan College Carterville	1971	Howell Hardware Co. Chicago	$ 5,013,599	$	$ 32,081 (w/o profit)
Kennedy-King College Chicago					
Malcolm X College Chicago					
Olive-Harvey College Chicago	1969-70		1,370,403		
Southwest College Chicago	1969-70		1,086,563		
College of DuPage Glen Ellyn	1971	Illini Hardware Co., Bensenville	1,549,518		17,000 (w/o profit)
Governors State University Park Forest, South	1971	M & F Builders Supply Elk Grove Village	20,000,000		80,000 (w/o profit)

Project Name and Address	Date of Construction	Finish Hardware Supplier	Cost of All Construction	Cost of General Work	Cost of Finish Hardware
Illinois Schools					
Abraham Lincoln School Oak Park					
Additions & Alterations	1971	Ken-Lee Hardware Company, Chicago	$ 406,180	$	$ 5,975
Emerson School Oak Park					
Additions & Alterations	1971	Ken-Lee Hardware Company, Chicago	457,098		8,500
Life Safety Code Remedial Work & Third Floor Classroom Addition	1971	Ken-Lee Hardware Company, Chicago	112,859		5,021
Hawthorne School Oak Park					
Additions & Alterations	1971	Ken-Lee Hardware Company, Chicago			7,497 (w/o profit)
Horace Mann School Oak Park					
Additions & Alterations	1971	Ken-Lee Hardware Company, Chicago			4,195 (w/o profit)
Longfellow School Oak Park					
Additions & Alterations	1971	Ken-Lee Hardware Company, Chicago			

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Project Name and Address	Date of Construction	Finish Hardware Supplier	Cost of All Construction	Cost of General Work	Cost of Finish Hardware
Illinois Schools (continued)					
William Beye School, Horace Mann School, & Washington Irving School Oak Park					
Life Safety Code Remedial Work	1973	Ken-Lee Hardware Company, Chicago	$ 158,350	$	$ 25,900

Project Name and Address	Date of Construction	Finish Hardware Supplier	Cost of All Construction	Cost of General Work	Cost of Finish Hardware
Municipalities					
City of Bloomington					
Municipal Parking Structure	1973-74	Henges Hardware, St. Louis, Mo.	$	$ 1,255,312	$ 855 (w/o profit)
Bloomington City Hall	1961-63	Metal Air Corp., Springfield		409,340	3,000 (w/o profit)
City of Normal					
Ash Park Swimming Pool	1973-74			172,750	
Normal Public Library	1972-73	S & S Builders Hardware Co., Peoria			
City of Park Ridge					
Park Ridge Fire Station North	1969-70	Illini Hardware Corp.		257,587	1,890 (w/o profit)
Park Ridge Fire Station South	1968-70	Illini Hardware Corp.		230,697	2,072 (w/o profit)
City of Pekin					
North Side Fire Station	1961-62			47,954	
South Side Fire Station	1961-62			90,214	

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Project Name and Address	Date of Construction	Finish Hardware Supplier	Cost of All Construction	Cost of General Work	Cost of Finish Hardware
City of Springfield					
Springfield Water, Light & Power - North Service Center	1971-72	Peter Vredenburgh Lumber Co., Springfield	$	$ 600,312	$
Springfield Water, Light & Power - V. Y. Dallman Power Plant	1966-68	Maxon Construction, Dayton, Ohio		4,564,000	
Springfield Water, Light & Power - V. Y. Dallman Plant - Unit 32 Addition	1969-72	Elzinga & Volkers, Inc. Holland, Michigan		5,843,000	
Springfield Water, Light & Power - Dispatch Center Contract 23	1972-73	Glen O'Brien Movable Partitions Co., Inc., Kansas City, Mo.		453,700	

Project Name and Address	Date of Construction	Finish Hardware Supplier	Cost of All Construction	Cost of General Work	Cost of Finish Hardware
Illinois County & Municipal Hospitals					
Fayette County Hospital District Vandalia					
Nursing Home Addition	1969	Black & Co.	$	$ 549,037	$ 11,502 (w/o profit)
Illini Hospital Silves	1966-1969	Curries, Inc., Mason City, Pa.		1,825,700	58,267 (w/o profit)
Jarman Memorial Hospital Tuscola, Douglas County	1965-1967	Edward Hines Lumber Co., Skokie		11,000,000	
McDonough District Hospital Macomb	1956-1957				
Moline Public Hospital Moline					
Marbrook Hall	1969	Ollar Hardware Co., Moline		8,006	1,000 (w/o profit)
Addition to East Wing	1964-1968	Ollar Hardware Co., Moline			36,905 (w/o profit)
Perry Memorial Hospital Princeton	1967-1969				
Sycamore Municipal Hospital Sycamore				340,000	

Project Name and Address	Date of Construction	Finish Hardware Supplier	Cost of All Construction	Cost of General Work	Cost of Finish Hardware
Chicago Housing Authority					
Parkview Apartments 3916 West Washington	1962-63		$ 1,753,222		$ 15,500
Rockwell Gardens Western-Rockwell- Monroe-VanBuren	1960	Edward Hines Lumber Co., Skokie	10,470,823		54,000
Scattered 12th & Washtenaw 13th & Tallman 43rd & Cottage Grove Bowen & Drexel	1968-70	Howell Hardware Co., Chicago	7,029,702		32,500
William Green Homes Division-Clybourn- Ogden Triangle	1962	Root Bros. Mfg. & Supply, Chicago	3,137,330		21,000
Robert H. Brooks Homes Ext. Racine-Roosevelt- Blue Island Triangle	1961	Howell Hardware Co., Chicago	5,177,341		32,640
Elderly High Rise 320 West 43rd	1968-70	Howell Hardware Co., Chicago	3,173,[illegible]1		41,408
Madden Park Homes 39th & Cottage Grove, 31st & Wentworth	1969-70	Howell Hardware Co., Chicago	9,727,057		99,860

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Project Name and Address	Date of Construction	Finish Hardware Supplier	Cost of All Construction	Cost of General Work	Cost of Finish Hardware
Chicago Housing Authority (cont.)					
Washington Park Homes 50th & Cottage Grove	1961-62	Howell Hardware Co., Chicago	$ 965,548	$	$ 5,200
Washington Park Homes 50th & Cottage Grove	1961-62	Howell Hardware Co., Chicago	8,041,533		51,891
Clarence Darrow Homes Pershing Rd. to 38th, East of S. Langley Avenue	1961	Root Bros. Mfg. & Supply, Chicago	5,860,678		27,690
Robert R. Taylor Homes State Street between 39th & Root	1960-62	Howell Hardware Co., Chicago	7,330,484		35,200
Robert R. Taylor Homes State Street between 39th & Root	1960-62	Howell Hardware Co., Chicago	14,763,115		70,400
Robert R. Taylor Homes State Street between 39th & Root	1960-62	Howell Hardware Co., Chicago	17,786,192		84,100
Robert R. Taylor Homes State Street between 39th & Root	1961-62	Howell Hardware Co., Chicago	14,895,787		70,400

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Project Name and Address	Date of Construction	Finish Hardware Supplier	Cost of All Construction	Cost of General Work	Cost of Finish Hardware
Chicago Housing Authority (cont.)					
Rockwell Gardens 2515 West Jackson	1961	Edward Hines Lumber Co., Skokie	$ 1,591,134	$	$ 9,100
Elderly Building 4945 North Sheridan	1966-67	Howell Hardware Co., Chicago	2,195,433		22,000
Lake Michigan Homes 41st to 43rd - East of Lake Park Avenue	1963	Howell Hardware Co., Chicago	6,760,062		35,600
Eckhart Park Apartments 838 North Noble	1963-65	Midwest Hardware, Chicago	1,699,037		24,797
Midwest Terrace Apartments 150 South Campbell	1963-64	Midwest Hardware, Chicago	1,234,904		13,589
Armour Square Apartments 3146 &3216 South Wentworth	1963-65	Howell Hardware Co., Chicago	2,116,620		27,126
Management & Maint. Bldg. Madison & Paulina	1966-67	Howell Hardware Co., Chicago.	125,706		814
Patrick J. Sullivan Apartments 1633 West Madison	1964-65	Howell Hardware Co., Chicago	4,359,832		37,950
Garfield Park Apartments 3700 West Congress	1963-64	Howell Hardware Co., Chicago	1,382,934		12,240

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Project Name and Address	Date of Construction	Finish Hardware Supplier	Cost of All Construction	Cost of General Work	Cost of Finish Hardware
Chicago Housing Authority (cont.)					
Franklin Boulevard Apartments 440 North Drake	1964-65	Midwest Hardware, Chicago	$ 1,358,917	$	$ 16,991
Hattie Callner Apartments 855 West Aldine	1964-65	Midwest Hardware, Chicago	1,357,649		20,083
Raymond M. Hilliard Center 54 West Cermak	1965-66	Midwest Hardware, Chicago	8,478,153		66,970
Judge Frederick W. Slater Apartments 740 East 43rd	1965-67		2,102,801		21,000
69th & South Chicago Apartments 69th and South Chicago	1966-68	Howell Hardware, Chicago	1,454,578		15,000
Dickens & Burling Apartments 2111 North Halsted	1968-69	Howell Hardware, Chicago	1,593,971		13,700
Clark & Webster Apartments Cabrini Scattered 2136 North Clark (E) 1911 North Sedgwick & 420-30 West North Avenue (F)	1968-69	Howell Hardware, Chicago	1,583,751		20,296
Kenneth B. Campbell Apartments 6360 South Minerva	1967-68	Howell Hardware, Chicago	1,741,395		14,000

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Project Name and Address	Date of Construction	Finish Hardware Supplier	Cost of All Construction	Cost of General Work	Cost of Finish Hardware
Chicago Housing Authority (cont.)					
Major Robert H. Lawrence, Jr. Apartments 655 West 65th	1966-67	Howell Hardware Co., Chicago	$ 1,925,945	$	$ 20,072
Washington Park Homes On Bowen, Champlain, 40th, 41st, Indiana, Pershing, Prairie, St. Lawrence, & Wabash	1965-67	Edward Hines Lumber Co., Skokie	4,269,574		10,800
Judge Wendell E. Green Apartments 4030 South Lake Park	1965-67	Midwest Hardware, Chicago	1,532,059		19,030
4645 Sheridan Apartments 4645 Sheridan Road	1966-68	Howell Hardware Co., Chicago	2,500,220		27,500
4930 Langley Apartments 4930 South Langley	1966-68	Howell Hardware Co., Chicago	1,816,113		17,600
Hyde Park - Kenwood Area South of 53rd on Woodlawn and on East 53rd and East 55th	1966-67	Midwest Hardware Co., Chicago	436,135		3,004
6401 South Yale Apartments 6401 South Yale	1971	Howell Hardware Co., Chicago	2,629,130		40,970
Lincoln & Sheffield Apartments 2640 North Sheffield	1967-68	Howell Hardware Co., Chicago	1,934,516		18,700

Project Name and Address	Date of Construction	Finish Hardware Supplier	Cost of All Construction	Cost of General Work	Cost of Finish Hardware
Chicago Housing Authority (cont.)					
Scattered - Lawndale	1968-69	Edward Hines Lumber, Chicago	$ 2,810,918	$	$
Clark & Irvin . Apartments 3920 & 3940 North Clark	1968-70	Howell Hardware Co., Chicago	2,2[illegible],606		19,400
Eckhart Park Apartments 847 North Greenview	1968-69	Howell Hardware Co., Chicago	1,9[illegible],963		27,010
Judge Frederick W. Slater Annex Apartments 4218 South Cottage Grove	1968-70	Howell Hardware Co., Chicago	2,[illegible],583		17,700
Lincoln & Sheffield Annex Apartments 2720 North Sheffield	1968-70	Howell Hardware Co., Chicago	2,[illegible],921		19,165
William Green Homes Division-Clybourn Ogden Triangle	1962		9,1[illegible],312		64,286
Washington Park Homes 50th & Cottage Grove	1965		3,7[illegible],911		17,280
Henry Horner Homes Ext. Damen to Oakley South of Lake Street	1961		9,7[illegible],435		48,700

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Project Name and Address	Date of Construction	Finish Hardware Supplier	Cost of All Construction	Cost of General Work	Cost of Finish Hardware
Chicago Housing Authority (cont.)					
Bridgeport Apartments 841 West 32nd	1962-63		$ [illegible]	$	$ 994
Yates Garden Apartments 2452-54 East 106th	1962-63		[illegible]		1,988
Thomas J. Flanner Apartments 1507 & 1531 North Clybourn	1963-65		2,532,[illegible]		34,524
Clark & Irving Apartments 3930 North Clark	1966-67		1,9[illegible]		19,500
Rehab - Lawndale	1971		[illegible]		4,958
Judge Harry M. Fisher Apartments 5821 North Broadway	1963-64		1,[illegible]		17,500

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN RE:	
MASTER KEY ANTITRUST LITIGATION	M.D.L. DOCKET NO. 45

PLAINTIFFS' MEMORANDUM OF LAW
WITH RESPECT TO NATURE AND PROOF OF THE ANTITRUST
VIOLATIONS COMMITTED BY DEFENDANTS

I N D E X

I. DEFENDANTS ARE GUILTY OF ILLEGAL HORIZONTAL CONSPIRACIES UNDER THE SHERMAN ACT TO FIX PRICES AND ELIMINATE COMPETITION IN THE SALE OF CONTRACT HARDWARE FOR MASTER KEY PROJECTS 1

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN RE: MASTER KEY ANTITRUST LITIGATION	M.D.L. DOCKET NO. 45

MEMORANDUM OF LAW WITH RESPECT TO NATURE AND PROOF OF THE ANTITRUST VIOLATIONS COMMITTED BY DEFENDANTS

I.

DEFENDANTS ARE GUILTY OF ILLEGAL HORIZONTAL CONSPIRACIES UNDER THE SHERMAN ACT TO FIX PRICES AND ELIMINATE COMPETITION IN THE SALE OF CONTRACT HARDWARE FOR MASTER KEY PROJECTS

It is firmly settled law that any form of agreement among competitors to "fix" or maintain prices, to divide markets, or to allocate customers is illegal per se under Section 1 of the Sherman Act. The agreement itself constitutes the complete unlawful act. Nash v. United States, 229 U.S. 373, 378 (1913); United States v. Trenton Potteries, 273 U.S. 392, 402 (1927).

Agreements to set prices or eliminate competition cannot be justified on the grounds that they were motivated by business necessity or other considerations. Ethyl Gasoline Corp. v. United States, 309 U.S. 436, 461 (1940).

It makes no difference that the conspiracy did not result in identical prices for contract hardware items. It was per se illegal for the defendants to have an "understanding and accord among them, to avoid having the general price levels disrupted." Armco Steel Corp. v. Adams County, North Dakota, 376 F.2d 212, 214 (8th Cir. 1967). The Sherman Act's prohibition

against price fixing extends to all agreements that limit competitive pricing behavior and tamper with price structure. In United States v. Socony-Vacuum Oil Co., 310 U.S. 150 (1940), the Supreme Court stated:

> Any combination which tampers with price structure is engaged in an unlawful activity. Even though the members of the price-fixing group were in no position to control the market, to the extent that they raised, lowered, or stabilized prices they would be directly interfering with the free play of market forces. The Act places all such schemes beyond the pale and protects that vital part of our economy against any degree of interference. (310 U.S. at 221).
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> Nor is it important that the prices paid by the combination were not fixed in the sense that they were uniform and inflexible. Price fixing as used in the Trenton Potteries Co. Case has no such limited meaning.... Hence, prices are fixed within the meaning of the Trenton Potteries Co. Case if the range within which purchases or sales will be made is agreed upon, if the prices paid or charged are to be at a certain level or on ascending or descending scales, if they are to be uniform, or if by various formulae they are related to the market prices. They are fixed because they are agreed upon. (310 U.S. at 222).
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> Under the Sherman Act a combination formed for the purpose and with the effect of raising, depressing, fixing, pegging, or stabilizing the prices of a commodity in interstate or foreign commerce is illegal per se. (310 U.S. at 223).

See United States v. Frankfort Distilleries, Inc., 324 U.S. 293 (1945); Plymouth Dealers' Ass'n. v. United States, 279 F.2d 128, 134 (9th Cir. 1960); United States v. Gasoline Retailers Ass'n., 285 F.2d 688 (7th Cir. 1960).

A. Liability of Defendants for the Conspiracy to Restrain Trade.

It is well settled that an illegal conspiracy may result from agreement, tacit understanding or "acquiescence ... coupled with assistance in effectuating its purpose." United

States v. Singer Manufacturing Co., 374 U.S. 174, 193 (1963). A conspiracy may be shown without evidence that the members entered into any express or written agreement. United States v. Bausch & Lomb Optical Co., 321 U.S. 707 (1944). As stressed in Interstate Circuit v. United States, 306 U.S. 208, 227 (1939):

> It is elementary that an unlawful conspiracy may be and often is formed without simultaneously [illegible] or agreement on the part of [illegible]. Acceptance by competitors, without [illegible] ment, of an invitation to participate in a plan, the necessary consequence of which, if carried out, is restraint of interstate commerce, is sufficient to establish an unlawful conspiracy under the Sherman Act. Eastern States Retail Lumber Dealers' Ass'n. v. United States, 234 U.S. 600.

Indeed, "it has long been settled that explicit agreement is not a necessary part of a Sherman Act conspiracy -- certainly not where, as here, joint and collaborative action was pervasive in the initiation, execution, and fulfillment of the plan." United States v. General Motors Corp., 384 U.S. 127, 142-43 (1966). Written or oral assurances are unnecessary "if a course of conduct [such as the elimination of competition on masterkey system extensions], or a price schedule, once suggested or outlined by a competitor in the presence of other competitors, is followed by all -- generally and customarily -- and continuously for all practical purposes, even though there be slight variations." Esco Corp. v. United States, 340 F.2d 1000, 1008 (9th Cir. 1965); Frey & Son, Inc. v. Cudahy Packing Co., 256 U.S. 208 (1921).

This theory was recently applied by Judge Zirpoli in Wall Products Co. v. National Gypsum Co., 326 F. Supp. 265, 316 (N.D. Cal. 1971), with language especially applicable to the conspiracy among defendants who are the only full line manufacturers

of contract hardware:

> In an industry composed of few sellers of a homogeneous product, when the major competitive sellers engage in policies and practices which have for their objective the stopping of declining prices and deviations from terms of sale and when those policies and practices are parallel in detail (even as to unannounced policies and practices) and are so interdependent that adherence thereto on the part of all such major competitors is essential to the achievement of their objective, such interdependent conscious parallel action may well constitute a tacit understanding by "acquiescence * * * coupled with assistance" to effectuate a price fixing agreement.

Most recently, the Supreme Court in United States v. Container Corp., 393 U.S. 333 (1969), found that the reciprocal exchange of price information among competitors was illegal concerted action to stabilize prices even absent any explicit pact to adhere to the price schedules.

Each defendant manufacturer and every distributor who understood and accepted the anticompetitive purpose for instituting masterkey systems and allocating territories became co-conspirators. The Supreme Court stressed in FTC v. Cement Institute, 333 U.S. 683 (1948):

> It is enough to warrant a finding of a "combination" within the meaning of the Sherman Act, if there is evidence that persons, with knowledge that concerted action was contemplated and invited, give adherence to and then participate in a scheme. (333 U.S. at 716 n.17).

See also Triangle Conduit & Cable Co. v. FTC, 168 F.2d 175, 180 (7th Cir. 1948), aff'd sub nom., Clayton Mark & Co. v. FTC, 336 U.S. 946 (1949).

Moreover, it is not incumbent upon plaintiffs

> to prove that each defendant participated in that conspiracy in all of its ramifications, for, in order that one be found guilty as a conspirator, it need only be shown that, with knowledge of the existence of the conspiracy, he knowingly performed an act designed to promote or aid in the attainment of the object of that known

conspiracy. United States v. National City Lines, 186 F.2d 562, 572 (7th Cir.), cert. denied, 341 U.S. 916 (1951).

It does not matter that a defendant may have "joined the conspiracy subsequent to its formation." United States v. General Motors Corp., 121 F.2d 376, 408 (7th Cir.), cert. denied, 314 U.S. 618 (1941). The acts of each defendant in furtherance of the unlawful agreement and combination make it liable for all prior and subsequent conduct by the other conspirators reasonably within the scope of the conspiracy. Esco Corp. v. United States, 340 F.2d 1000, 1005-6 (9th Cir. 1965).

In United States v. Masonite Corp., 316 U.S. 265 (1942), the Supreme Court found an illegal price fixing conspiracy between Masonite and those corporations which [illegible] petitors, but who agreed seriatim to become its agents and sell its patented product at an established price. The opinion reasoned:

> It is not clear at what precise point of time each appellee became aware of the fact that its contract was not an isolated transaction but part of a larger arrangement. But it is clear that as the arrangement continued each became familiar with its purpose and scope. Here as in Interstate Circuit v. United States, 306 U.S. 208, 226, ... "It was enough that, knowing that concerted action was contemplated and invited, the distributors gave their adherence to the scheme and participated in it." The circumstances ... leave no room for doubt that all had an awareness of the general scope and purpose of the undertaking. (316 U.S. at 275).

The evidence that the defendants prohibited dealers from bidding on existing masterkey systems to eliminate price competition, and protected their dealers from such infringement, compels a finding of illegal agreement, understanding, and concerted action among defendants and the dealers. United States v. Parke, Davis & Co., 362 U.S. 29, 43-44, 46 (1960). The participation of dealers in the unlawful scheme may be shown by their

adherence to the illegal allocation of masterkey projects and their policing of other dealers on the basis of their "understanding" that the manufacturers would enforce the restraints. Every dealer who complained to the defendants about another dealer breaking a masterkey system thereby affirmed his own commitment to the conspiracy. Girardi v. Gates Rubber Co., 325 F.2d 196 (9th Cir. 1963). The responses of defendants to such complaints -- discipline of offending dealers, promises to investigate and discipline, assurances that the other dealer had not knowingly bid on an existing masterkey system, or had promised future compliance and arrangements to compensate the complaining dealers -- were designed to induce continued protection of existing masterkey systems and assigned territories of all dealers.

It is not necessary to find a specific intent to violate the law, for the parties are deemed to have intended the necessary and direct consequences of their acts. United States v. Griffith, 334 U.S. 100, 105 (1948).

Thus, price-fixing agreements have been inferred from nearly simultaneous, uniform price increases when preceded by meetings at which price was discussed generally, Safeway Stores, Inc. v. FTC, 366 F.2d 795, 799-801 (9th Cir. 1966), cert. denied, 386 U.S. 932 (1967); United States v. American Radiator & Standard Sanitary Corp., 433 F.2d 174 (3d Cir. 1970), cert. denied, 401 U.S. 948 (1971); Ohio Valley Electric Corp. v. General Electric Co., 244 F. Supp. 914, 924-25 (S.D.N.Y. 1965); by the circulation of a proposed price list to competitors, National Dairy Products Corp. v. United States, 350 F.2d 321, 328-29 (9th Cir. 1965); vacated on other grounds, 384 U.S. 883 (1966); and by the exchange of freight rates where basic product list prices are

uniform, United States v. FMC Corp., 306 F. Supp. 1106, 1148-49 (E.D. Pa. 1969).

B. Illegal Restraints by Defendants to Effectuate the Conspiracy.

The defendants implemented and enforced their horizontal arrangements by restraints upon dealers -- through agreements and coercive action -- which were themselves per se unlawful. These restraints were imposed to stabilize and maintain inflated price levels in violation of Section 1 of the Sherman Act. Adolph Coors Co. v. FTC, 497 F.2d 1178 (10th Cir. 1974).

There can be no question that it was illegal for defendants to secure the agreement of dealers to refrain from bidding or to submit complimentary bids for contract hardware to protect other dealers on masterkey projects. Addyston Pipe & Steel Co. v. United States, 175 U.S. 211 (1899); Dr. Miles Medical Co. v. Park & Sons Co., 220 U.S. 373 (1911).

The law is settled that agreements among competitors to allocate jobs, customers or territories are per se illegal under Section 1 of the Sherman Act. E.g., United States v. Topco Associates, Inc., 405 U.S. 596 (1972). As stated in United States v. Consolidated Laundries Corp., 291 F.2d 563, 574-75 (2d Cir. 1961):

> Assuming that customers were allocated in the case at bar, no more need be proved; we agree that the per se rule should be applied. We fail to see any significant difference between an allocation of customers and an allocation of territory.

In Consolidated Laundries, defendants in the linen supply business agreed to suppress competition as to their old customers, but did compete for new accounts. (291 F.2d at 575). The agreements among defendants in this case to eliminate competition for extensions to masterkey systems, should likewise be held per se illegal

irrespective of any interbrand competition which may have survived on original installations.

Finally it was illegal per se for defendants to implement and enforce their anticompetitive agreements with respect to masterkey projects by prohibiting their dealers from "bootlegging" or reselling contract hardware to dealers of other manufacturers and dealers in other territories. As the Supreme Court stated in United States v. General Motors Corp., 384 U.S. 127, 146 (1966), "[W]here businessmen concert their actions in order to deprive others of access to merchandise which the latter wish to sell to the public, we need not inquire into the economic motivation underlying their conduct."

Similar resale restrictions, when imposed through vertical agreement between a manufacturer and its distributors, were held to be illegal per se in United States v. Arnold, Schwinn & Co., 388 U.S. 365, 379 (1967):

> [I]t is unreasonable without more for a manufacturer to seek to restrict and confine areas or persons with whom an article may be traded after the manufacturer has parted with dominion over it.

See also Bowen v. New York News, Inc., CCH Trade Cases ¶ 74,591 at p. 94,604 (S.D.N.Y. 1973). Defendants' restrictions against "bootlegging" must also be condemned as illegal per se, since they eliminated competition between manufacturers and all distributors of any of the other brands of contract hardware. While enforced through vertical restraints which are themselves illegal under Schwinn, they "operated in fact" as horizontal customer allocations which must also be judged by the per se rule. Hobart Brothers Co. v. Malcolm T. Gilliland, Inc., 471 F.2d 894, 899 (5th Cir.), cert denied, 412 U.S. 923 (1973); Interphoto Corp. v. Minolta Corp., 295 F. Supp. 711, 719-21 (S.D.N.Y.), aff'd, 417 F.2d 621 (2d Cir. 1969).

The evidence of "firm and resolute" enforcement in this case -- termination, threats to terminate, expulsion from the industry's trade association, refusals to fill orders, and requirement of compensation for the "protected" dealer -- leaves no doubt that the restraints on competition by defendants and their co-conspirators constituted a per se violation of the antitrust laws. United States v. Eaton, Yale & Towne, Inc., CCH Trade Cases ¶ 73,889 (D. Conn. 1972); Janel Sales Corp. v. Lanvin Parfums, Inc., 396 F.2d 398, 406 (2d Cir.), cert. denied, 393 U.S. 938 (1968).

C. Manner of Proof of Conspiracy.

The "character and effect of a conspiracy are not to be judged by dismembering it and viewing its separate parts, but only by looking at it as a whole." United States v. Patten, 226 U.S. 525, 544 (1913). In civil antitrust conspiracy cases, "plaintiffs should be given the full benefit of their proof without tightly compartmentalizing the various factual components and wiping the slate clean after scrutiny of each." Continental Ore Co. v. Union Carbide Corp., 370 U.S. 690, 699 (1962). This admonition applies with special force to proof of agreements and concerted action by which defendants secured adherence of their distributors to the conspiracy among defendants to maintain prices and eliminate competition in masterkey projects.

What appear to be innocent acts may be "part of the sum of the acts" which comprise an illegal agreement or combination. American Tobacco Co. v. United States, 147 F.2d 93, 107 (6th Cir. 1944), aff'd, 328 U.S. 781 (1946). As the Fifth Circuit stated in Lehrman v. Gulf Oil Corp., 464 F.2d 26, 38 n.9

(5th Cir. 1972), aff'd after remand, CCH Trade Cases ¶ 75,236 (5th Cir. 1974):

> Few business practices are anticompetitive on their face; whether or not such practices square with the antitrust laws often depends on how the practices are used in day-to-day business operations. It is usually difficult for a court or a jury to cut through the rhetoric with which litigated business practices are described, and thereby to arrive at a reliable sense of the everyday significance of the practice in question. The circumstances surrounding the use of a particular business practice give strong clues as to what those who employ the practice hope to accomplish by it, and what those individuals hope to accomplish may shed light on whether the practice does in fact have the hoped-for, but anticompetitive, effect. In short, when a firm displays an anticompetitive animus in the operation of an otherwise ambiguous business practice, what the firm seeks to accomplish provides as pure an indicator of the account of the expected competition as can be found in the freighted setting of antitrust litigation. (Emphasis added).

The contemporaneous documents uncovered in this case provide direct proof of the anticompetitive purpose and effect of the restraints upon dealers. Moreover, these documents must be given far greater weight in judging the illegality of defendants' conduct than subsequent explanations made for purposes of litigation. E.g., United States v. U.S. Gypsum Co., 333 U.S. 364, 395-96 (1948); United States v. Eaton, Yale & Towne, Inc., CCH Trade Cases ¶ 73,889 (D. Conn. 1972); United States v. U.S. Alkali Export Ass'n., 86 F. Supp. 59, 73 (S.D.N.Y. 1949); United States v. General Electric Co., 82 F. Supp. 753, 844-45 (D.N.J. 1949). As stressed in United States v. [illegible] Products Refining Co., 234 Fed. 964, 978 (S.D.N.Y.), appeal dismissed, 249 U.S. 621 (1919):

> The documents were never intended to meet the eyes of any one but the officers themselves, and were, as it were, cinematographic photographs of their purposes at the time when they were written. They have, therefore, the highest validity as evidence of intention....

Although a conspiracy, like any other crime, may be established by direct testimonial or documentary evidence, conspiracies are usually sought to be concealed by defendants, as in this case, and have to be proved by inferences drawn from relevant and competent circumstantial evidence, including the conduct of the defendants charged. United States v. Parke, Davis & Co., 362 U.S. 29, 44 (1960); Industrial Building Materials, Inc. v. Interchemical Corp., 437 F.2d 1336 (9th Cir. 1971). The unlikelihood that the prosecution can obtain very much direct evidence of the crime is "particularly true of price-fixing conspiracies...." Esco Corp. v. United States, 340 F.2d 1000, 1007 (9th Cir. 1965). "Participation in a criminal conspiracy need not be proved by direct evidence; a common purpose and plan may be inferred from a 'development and a collocation of circumstances.'" Glasser v. United States, 315 U.S. 60, 80 (1942). As stated in Flintkote Co. v. Lysfjord, 246 F.2d 368, 374-75 (9th Cir.), cert. denied, 355 U.S. 835 (1957):

> Neither knowledge of the conspiracy alleged, nor participation therein, need be proved by direct evidence, even in criminal prosecutions where the rule of proof is more strict than in civil conspiracy cases.... "Proof of a formal agreement is unnecessary, and were the law otherwise such conspiracies would flourish; profit rather than punishment would be the reward."

In United States v. Ward Baking Co., 224 F. Supp. 66, 69-70 (E.D. Pa. 1963), Judge Van Dusen stated:

> Criminal plottings are spawned in secrecy, and the very nature of conspiracy often precludes proof by direct evidence. For this reason it is an axiomatic principle of law that a conspiracy charge may be sustained on circumstantial evidence alone.... Overt acts done in apparent pursuance of a common plan serve to demonstrate the existence of a conspiracy.

It is well settled law that in proving a conspiracy, and showing its intent, the plaintiff may introduce evidence of acts and declarations occurring prior to the period charged in the complaint or for which damages are sought, provided they are relevant. In United States v. Dennis, 183 F.2d 201, 231 (2d Cir. 1950), aff'd, 341 U.S. 494 (1951), Judge Learned Hand stated:

> There can be no logical reason for limiting evidence to prove [illegible] in a conspiracy, to acts done within the period of the charge; if [illegible] declarations of any one of them or of any other person in concert with them are as competent as those made within the period laid.... [I]t is nonsense to say that events occurring before a crime can have no relevance to the conclusion that the crime was committed; and declarations are no different from any other evidence. How far back of the commission of the crime one may go is a matter of degree, and within the general control of the judge over the relevancy of evidence.

The federal courts have established less stringent standards of relevance for the admission of circumstantial evidence in conspiracy trials than for other crimes. "[W]ide latitude is allowed [the plaintiff] in presenting evidence, and it is within the discretion of the trial judge to admit evidence which even remotely tends to establish the conspiracy charged." Nye & Nissen v. United States, 168 F.2d 846, 857 (9th Cir. 1948), aff'd, 336 U.S. 613 (1949); Clune v. United States, 159 U.S. 590, 592-93 (1895); United States v. General Electric Corp., 82 F. Supp. 753, 903 (D.N.J. 1949). Moreover, once an agreement has been established, only slight additional evidence is necessary to connect any particular defendant with the conspiracy. See, e.g., United States v. Cohen, 197 F.2d 26, 29 (3d Cir. 1952); United States v. Iacovetti, 466 F.2d 1147, 1154 (5th Cir. 1972); United States v. Morado, 454 F.2d 167, 175 (5th Cir.), cert. denied, 406 U.S. 917 (1972).

D. Duration and Termination of and Withdrawal from Conspiracy.

A conspiracy is not presumed to have ended simply because an important overt act in furtherance of it is accomplished. United States v. Kissel, 218 U.S. 601, 609 (1910); United States v. Hyde, 225 U.S. 347, 368 (1912). A conspiracy does not end until it has "spent itself within the scope of the conspiratorial agreement." United States v. La Bate, 168 F. Supp. 531, 534, aff'd, 270 F.2d 122 (3d Cir.), cert. denied, 361 U.S. 900 (1959).

Moreover, once the conspiracy is established, it is presumed to continue until the contrary is shown. United States v. Stromberg, 268 F.2d 256, 263 (2d Cir. 1957), 361 U.S. 863 (1959); United States v. Kissel, 218 U.S. 601, 609 (1910); United States v. Perlstein, 126 F.2d 789, 796 (3d Cir.), cert. denied, 316 U.S. 676 (1942). The continuation of a conspiracy "may consist alone in accepting the benefits of an agreement previously made." United States v. Swift, 186 Fed. 1002, 1013 (N.D. Ill. 1911). A co-conspirator has the burden of [illegible] withdrew from the conspiracy prior to the [illegible] United States v. Company, 146 F.2d 524, 527 (2d Cir. 1944), cert. denied, 324 U.S. 867 (1945); United States v. Cohen, 145 F.2d 82, 90 (2d Cir. 1944), cert. denied, 323 U.S. 799 (1945). "Mere cessation of activity is not enough" to accomplish withdrawal. United States v. Borelli, 336 F.2d 376, 388 (2d Cir. 1964), cert. denied, 379 U.S. 960 (1965). Some affirmative action to disavow or defeat the purpose of the conspiracy is required. Hyde v. United States, 225 U.S. 347, 369 (1911). Nor does resignation from a trade association remove a party from a conspiracy in which the party has participated along with the trade association. United

States v. National Ass'n. of Leather Glove Manufacturers, 1954 Trade Cases ¶ 67,842 (N.D.N.Y. 1954).

E. Corporate Responsibility for the Acts of Corporate Agents.

Corporate liability extends to antitrust violations committed through corporate agents. United States v. Johns-Manville Corp., 231 F. Supp. 690, 693 (E.D. Pa. 1963). The defendants need not have specifically authorized the agent's act in question. Continental Baking Co. v. United States, 281 F.2d 137, 149-50 (6th Cir. 1960).

Having employed agents in a responsible position and received the benefits of their conduct, defendants cannot be heard to say that the men were only authorized to act legally. United States v. George F. Fish, Inc., 154 F.2d 798, 801 (2d Cir.), cert. denied, 328 U.S. 869 (1946). So long as the agent had implied or apparent authority to act, defendants must answer for his unlawful conduct, even were such acts contrary to instructions. Continental Baking Co. v. United States, supra; Philadelphia Electric Co. v. Westinghouse Electric Corp., 1964 Trade Cases ¶ 71,123 at 79,440 (E.D. Pa. 1964); United States v. Armour & Co., 168 F.2d 342 (3d Cir. 1948).

Moreover, even if the agent exceeded his apparent authority, defendants remain liable since they adopted the illegal acts or agreements. Such ratification may be shown by circumstantial evidence. Pittsburgh Plate Glass Co. v. United States, 260 F.2d 397, 401 (4th Cir. 1958), aff'd, 360 U.S. 395 (1960).

II.

RULES WITH RESPECT TO ADMISSIBILITY OF EVIDENCE

A. Acts and Non-Hearsay Declarations.

Non-hearsay evidence, such as evidence of the acts of alleged co-conspirators, is admissible against all defendants regardless of the fact that the conduct took place outside their presence. Lutwak v. United States, 344 U.S. 604, 617-619 (1953), stresses that non-hearsay evidence is always admissible against all defendants if probative of the conspiracy.

As Judge Friendly stressed in United States v. Costello, 352 F.2d 848, 854 (2d Cir. 1965), rev'd on other grounds, 390 U.S. 201 (1968):

> Evidence of an act (or a statement offered other than for its truth) has no special evidentiary hurdle to overcome and, whether the act is by a co-conspirator or third person and whether it occurs during the period of a conspiracy or not, the evidence is admissible so long as the act is probative of a crime charged against a defendant and the evidence is not excludable on some special ground. Thus, the acts of others not involving the defendant directly may come in against him merely to show the existence of a conspiracy, with which he is to be linked by quite separate proof.

The testimony of an eyewitness -- whether an admitted co-conspirator or a mere observer -- is direct, "independent", non-hearsay evidence; it is fully admissible against all defendants. The description by David R. Oaks of defendants' agreements and overt acts to restrain competition illustrates this type of testimony. Insofar as it is relevant, the testimony of all witnesses deposed by plaintiffs in this case may be introduced to show the nature, scope and effect of the conspiracy to fix prices and eliminate competition.

Attempts to confuse the rules relating to the admissibility of extra-judicial declarations of alleged co-conspirators with the far simpler rules governing the in-court testimony of a

former conspirator have been rejected. In Gordon v. United States, 164 F.2d 855, 860 (6th Cir. 1947), the court stated:

> The objection that under Fiswick v. United States, 329 U.S. 211, 219 ... Banning's testimony constituted a confession made after the conspiracy was at an end and hence was not admissible against appellant has no merit. The Fiswick decision adheres to the well-established rule with reference to extra-judicial confessions in the situation where the admissions or confessions of an accused made outside the court are sought to be introduced in evidence. It has no application here, for Banning's statement, while it constitutes a confesssion of his own guilt, is made in open court and in the presence of the appellant. It constitutes direct and competent evidence that appellant performed the acts charged in the indictment. Valdez v. United States, 244 U.S. 432.

B. Business Record Exception to Hearsay Rule.

By the operation of 28 U.S.C. § 1732, all documents that constitute "business records" are excepted from the hearsay rule and are admissible as direct evidence of the transactions to which they relate.*/ See United States v. Johns-Manville Corp., 231 F. Supp. 690, 694 (E.D. Pa. 1963).

Accordingly, the business records of any business corporation or association, to the extent they are material and relevant, are admissible against all defendants. In Carroll v. United

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*/ Section 1732(a) provides:

> [A]ny writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, shall be admissible as evidence of such act, transaction, occurrence, or event, if made in regular course of any business, and if it was the regular course of such business to make such memorandum or record at the time of such act, transaction, occurrence, or event or within a reasonable time thereafter.
>
> All other circumstances of the making of such writing or record, including lack of personal knowledge by the entrant or maker, may be shown to affect its weight, but such circumstances shall not affect its admissibility.

States, 326 F.2d 72, 78 (10th Cir. 1963), the court stated:

> If, in a lawsuit between A and B, the nature of a series of transactions between B and C becomes relevant, and if its nature is recorded in C's business records, then surely those records, properly identified, can be used to prove the transactions. Indeed, the complexity of modern business is such that there may be no other way to prove them.
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> * * *
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> The guarantee of veracity is in the fact that they are regular business records and not made for the purposes of litigation. The only available objection then becomes one of relevancy or materiality, not hearsay.

The procedure by which the trial documents were produced establishes their character as business records within the meaning of 28 U.S.C. § 1732. The subpoenae and document production orders required defendants and co-conspirators to supply correspondence and memoranda that had been maintained in their corporate files. In addition, defendants have admitted that the documents from their respective files are authentic and genuine. Even less circumstantial proof regarding the source and character of documents as business records has satisfied the requirements of Section 1732. See United States v. Holmes, 387 F.2d 781, 783 (7th Cir. 1967), cert. denied, 391 U.S. 936 (1968); Imperial Meat Co. v. United States, 316 F.2d 435, 438 (10th Cir.), cert. denied, 375 U.S. 820 (1963).

The fact that these records had been retained in the corporate files further insures their status as business records, and consequent reliability. If additional proof were needed, one would only have to consider the nature and the content of the documents themselves. In almost all instances, the author(s) and recipient(s) appear on the documents. The substance of the documents relates to matters corroborated by other evidence.

Whenever possible, documents were identified as business records in the course of depositions. With respect to other documents such as memoranda or correspondence from co-conspirators who are now deceased or unavailable, plaintiffs have sought to designate copies with signatures affixed or copies produced by the recipient of such correspondence, as well as the copy retained by the company sending the communication. As the court in United States v. Imperial Chemical Industries, Ltd., 100 F. Supp. 504, 513 (S.D.N.Y. 1951), stressed, overruling objections to specific documents:

> Neither is signed and there is no proof as to their authorship. Nevertheless, since there is sufficient circumstantial proof to establish that they are authentic records and declarations of an agent of ICI, they are received in evidence. Both are from the files of ICI ... the subject matter of both is corroborated by other evidence, and both ... give every indication of having been prepared by a responsible agent of ICI. Indeed, the only logical explanation of their appearance in the ICI files if they are not authentic, is that the documents are forgeries, or spurious. Such an explanation is rejected as entirely improbable.

Moreover, since most of the documents constitute admissions or otherwise damaging evidence, it is inconceivable that any potential defendant would fabricate such documents for this litigation, or for any other reason besides their obvious business purposes.*/

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*/ Defendants cannot be heard to argue that because a document records an illegal agreement or unlawful concerted action, it thereby loses its character as a business record. See discussion of corporate responsibility for acts of its agents, supra, p. 14.

C. Co-Conspirator Exception to Hearsay Rule.

To the extent that out-of-court declarations of third party co-conspirators are admitted to prove the truth of the utterance, the co-conspirator doctrine operates as an exception to the rule against hearsay. Once a prima facie showing has been made of conspiracy and participation by defendant, "declarations of co-conspirators in furtherance of the conspiracy are admissible against all." United States v. Imperial Chemical Industries, Ltd., 100 F. Supp. 504, 512 (S.D.N.Y. 1951); United States v. U.S. Gypsum Co., 333 U.S. 364, 388-89 (1948); Schine Chain Theatres v. United States, 334 U.S. 110, 117 (1948). Such declarations include the correspondence of corporate employees by which the restraints on competition were adopted, communicated, implemented and enforced. The letters and memoranda found in the defendants' files -- and designated as exhibits for trial -- are admissible under this doctrine.

"Where two or more persons have conspired to commit an offense against the United States, everything said, done, or written by each of them during the existence of the conspiracy and in furtherance thereof is admissible in evidence against the other." Bartlett v. United States, 166 F.2d 920, 924 (10th Cir. 1948). Rutledge v. Electric Hose & Rubber Co., 327 F. Supp. 1267, 1274 (C.D. Cal. 1971); United States v. Wohl Shoe Co., CCH Trade Cases ¶ 74,937 at p. 96,191 (D. N.M. 1974). This doctrine extends to testimony of a witness as to what a co-conspirator told him during the progress of the conspiracy. Delancy v. United States, 263 U.S. 586 (1924).

Since, in the contemplation of the law, a conspiracy is a "partnership in crime," Pinkerton v. United States, 328 U.S. 640, 644 (1946), each member of the conspiracy, whenever he acts

has been connected, what type of evidence is required to establish the connection, how much connecting evidence is needed, and when in the order of proof must the connecting evidence be presented.

As regards the defendant's connection to the conspiracy, "it is for the judge ... and not the jury, to determine the admissibility of the declarations." Carbo v. United States, 314 F.2d 718, 737 (9th Cir. 1963).

The independent proof of connection may be furnished by defendant's acts as well as his extra-judicial statements. If a defendant's own admissions tend to connect that defendant to the conspiracy, these admissions may constitute sufficient "independent" evidence of his involvement to make the declarations of other conspirators admissible against him to corroborate his own incriminating admissions. United States v. Cardillo, 247 F.2d 640, 641-42 (2d Cir.), cert. denied, 355 U.S. 893 (1957).

Circumstantial evidence also suffices to "connect" a defendant. In United States v. Manton, 107 F.2d 834, 839 (2d Cir. 1938), Justice Sutherland stated that:

> It is not necessary that the participation of the accused should be shown by direct evidence. The connection may be inferred from such facts and circumstances in evidence as legitimately tend to sustain that inference. Indeed, often if not generally, direct proof of criminal conspiracy is not available and it will be disclosed only by a development and collocation of circumstances.

The landmark case, Hitchman Coal & Coke Co. v. Mitchell, 245 U.S. 229, 249 (1917), defines what is required to connect as follows:

> In order that the declarations and conduct of third parties may be admissible in such a case, it is necessary to show by independent evidence that there was a combination between them and defendants, but it is not necessary to show by

> independent evidence that the combination was criminal or otherwise unlawful. The element of illegality may be shown by the declarations themselves.

The only qualification for the admission of statments of co-conspirators is that there be shown an association between the declarant and the defendant sought to be charged. It is quite proper, and indeed many times necessary, to prove the unlawfulness of the combination by the declarations themselves. United States v. General Electric Co., 82 F. Supp. 753, 785 (D.N.J. 1949). See also, United States v. Costello, 352 F.2d 848, 853 n.2 (2d Cir. 1965).

The "association" referred to may be and frequently is evidenced by meetings between the alleged participants in the conspiracy. Controlling principles have been succinctly stated in Continental Baking Co. v. United States, 281 F.2d 137, 151-52 (6th Cir. 1960):

> The Government had introduced evidence of meetings in which all the alleged conspirators participated, dating to about October, 1953. That evidence was sufficient to provide a foundation for the introduction of evidence of other acts on the part of one conspirator, in furtherance of the conspiracy, binding on all.

The test is not whether the defendant's connection has been proved beyond a reasonable doubt, but whether, accepting the independent evidence, the judge is satisfied that the evidence is sufficient to support a finding.

> Nor is it necessary ... that such independent evidence be inconsistent with all reasonable hypotheses of innocence ... either to legitimate its admissibility ... or to support a conviction. United States v. Ragland, 375 F.2d 471, 477 (2d Cir. 1967), cert. denied, 390 U.S. 925 (1968).

It is well settled that evidence of out-of-court declarations by co-conspirators may be admitted against all defendants

before each defendant has been connected to the conspiracy by independent evidence. Such evidence may be admitted tentatively, whenever offered, subject to the later connection of each defendant:

> The order of proof in a conspiracy case is a matter almost entirely within the discretion of the trial court ... and therefore error could not be predicated upon admission of evidence as to the act of an alleged co-conspirator prior to proof that defendant was connected with the conspiracy. Esco Corp. v. United States, 340 F.2d 1000, 1009 (9th Cir. 1965).

See, e.g., United States v. Stromberg, 268 F.2d 256 (2d Cir. 1957), 361 U.S. 863 (1959).

The state of the record in the present case eliminates any problem with respect to the proper order of proof of trial. The documents and testimony designated by plaintiffs constitute a prima facie showing of conspiracy and the involvement of defendants.

Respectfully submitted,

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DATED: November 29, 1974

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN RE: MASTER KEY ANTITRUST LITIGATION	M.D.L. DOCKET NO. 45

PLAINTIFFS' DESIGNATION OF EVIDENCE
WITH RESPECT TO TRIAL OF LIABILITY ISSUES

Pursuant to the discussion at the pretrial conference of September 30, 1974, plaintiffs have set forth the documents, deposition testimony, and witnesses that would be presented upon trial of the liability issues. This designation of evidence follows the outline of the previously filed Summary of Evidence.

Plaintiffs have also filed a Memorandum of Law with respect to the per se illegality of conduct revealed by the documents and testimony, procedure for proof of the conspiracy, and admissibility of evidence to prove the illegal agreements and concerted action.

The nature of the industry, the conspiracy, and its impact upon plaintiffs may be briefly outlined.

The term "contract hardware" refers to builders hardware sold on a contract basis for use in construction of schools, hospitals, office buildings, hotels, and other buildings. Defendants are the only full line manufacturers of contract hardware used for door openings, such as lock sets, latch sets, hinges, exit devices and closers. They sell contract hardware exclusively through authorized dealers, who are allowed to

represent only one defendant. Contract hardware dealers normally do not maintain sufficient inventory for contract hardware jobs; they submit bids on the hardware for a building as a package, and then order the different items when awarded the contract.

A masterkey system refers to an interrelated system of locks designed for a particular building or complex of buildings whereby each lock may be opened by its own distinct key, but all locks in a given system may be opened by a masterkey. Defendants maintain records regarding the keying configurations on all building projects that have masterkey systems with their brand of hardware.

Defendants conspired to fix and maintain the prices of contract hardware at non-competitive levels by meetings, communication, and the exchange of information regarding prices among the highest sales executives of defendants. Moreover, defendants agreed to eliminate competition on existing masterkey systems and, accordingly, prohibited their dealers from selling contract hardware for use on a building or group of buildings having another manufacturer's masterkey system. For this purpose, defendants adopted general sales policies against bidding on another manufacturer's masterkey system.

Defendants supplemented their horizontal conspiracy to protect masterkeys from competition, and to keep prices at artificially high levels, by separate illegal arrangements to allocate masterkey systems and territories among their own dealers and by the prohibition against dealers reselling (or bootlegging) contract hardware to other dealers. Consequently, defendants effectively prevented all competition -- interbrand

and intrabrand -- in the sale of contract hardware for masterkey projects.

Defendants knew their agreements to prevent competition were illegal. Consequently, they sought to conceal the conspiracy by enforcing restraints against dealers on a verbal basis, by arranging for the submission of collusive (or complimentary) bids, and by misrepresenting their sales policies to building owners.

Most dealers readily acquiesced in the restraints on their activities because they, in turn, were protected from interference by other dealers on their own masterkey systems. Defendants, however, closely policed adherence to the industry-wide understanding against competition on masterkey jobs and took the necessary measures to enforce the conspiracy. In the relatively infrequent instances that dealers violated the prohibitions against competing on masterkey jobs, defendants "convinced" them to withdraw their bids; refused to supply them with contract hardware; required them to compensate the protected dealer for lost profits; threatened them with termination or terminated them as authorized contract hardware dealers; and initiated disciplinary action in the ASAHC, the industry's trade association.

Because defendants maintain keying records, they can identify and stop orders from unauthorized dealers for locks and cylinders related to an existing masterkey system. By refusing to sell these items to anyone other than the "protected" dealer, defendants can control which dealer supplies all the contract hardware for a particular project.

As a result of the conspiracy, the defendants maintained their prices for contract hardware above competitive levels, and dealers put artificially high mark-ups on the contract hardware sold for construction projects with masterkey systems. Plaintiffs thus paid far more for contract hardware than the prices that would have prevailed absent defendants' illegal agreements and actions to restrain competition.

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I. THE DEFENDANTS CONSPIRED TOGETHER TO FIX AND MAINTAIN PRICES FOR CONTRACT HARDWARE

The conspiracy among defendants, which was nationwide in scope, included agreements, understandings, meetings and the exchange of information to keep their prices above competitive levels and to prevent dealers from disturbing this pricing structure.

A. Price information was exchanged among defendants to increase and stabilize prices.

There was an understanding among defendants to keep the prices that they charged dealers for contract hardware (list or book prices) artificially high and in line with one another. For this purpose, the highest sales executives of the defendants met to discuss price advances on contract hardware items. In a memorandum to E. J. Parker, president of Emhart, L.C. Booth, vice-president of Corbin, stated:

> Messrs. Giese [president of Sargent], Pantas [vice-president of Yale] and Meyer [president of Ilco] have requested a meeting in your office on Wednesday, April 9, at 10:30 a.m., in connection with the price advance on our lock line.
>
> (Booth Dep. Exh. 15, March 1958)

Other documents record meetings between sales executives of Yale, Corbin and Russwin.

(Booth Dep. Exhs. 13 and 14, April 1958)

Moreover, defendants exchanged price information on a regular basis; this enabled defendants to price their comparable items of contract hardware at the same level.

(Oaks Tr. 101; Witt Tr. 29-30; Yale Tr. 187)

One letter from L.C. Booth, vice-president of Corbin, to John F. Meyer of Lockwood reads:

> Some time ago I spoke to you about the fact that on price changes all we received from you is your printed list prices.
>
> We know that in addition to this you send out your special Net Prices, notices to your contract accounts and to your jobbing accounts, and any other "specials" beyond your regular printed list.
>
> We sent to you all price information so that you will be fully informed as to what we are doing.
>
> It would be appreciated if you would have your Pricing Department see that we get full copies of all of your changes so that we can all be on a similar basis.
>
> (Booth Dep. Exh. 2, August 1955)

As a result of this conspiratorial conduct, prices stayed artificially high and a pattern was developed whereby defendants "similarly" increased prices for contract items at intervals during the conspiratorial period.

(Oaks Tr. 102; Witt Tr. 30; Wheatley Dep. Exh. 29, September 1967)

For instance, a Sargent announcement of 7% price increases to Fenestra in 1966 notes: "It is understood that competitive hardware manufacturers will similarly increase prices for the same items by approximately 7/1/66."*/

(Yale Dep. Exh. 39, June 1966)

The fact that the defendants had agreed to keep their prices in line appears from a Sargent memorandum to all contract sales managers, written by vice-president J.B. Duff, regarding the prices charged by Fenestra, a door manufacturer that purchased hardware from Sargent:

---

*/ A document circulated among Emhart's sales executives records a 1962 meeting between Sam Crissman, George Wheatley, Ilco sales executives, and Sam Goldstein, Ilco's contract hardware account in New York City, regarding Ilco's special New York prices for contract hardware items.

(Wheatley Dep. Exh. 3, November 1962)

A very unfortunate thing has happened recently. Under date of November 6, 1961, Fenestra sent a memorandum of all Sales Personnel which has caused a great furore in the contract hardware distributing fraternity. You are probably familiar with this document but in case you are not I am attaching a copy. There are a few things in this that seem to disturb people more than others.

Their statement on Page 3 - "Although major manufacturers had increased prices, Fenestra would not raise prices."

* * *

The price list which accompanied this memorandum is also attached. You will note that in almost every case, the 20% - 46% they refer to on Page 3 nets their products out at approximately 25% higher than a Sargent dealer can buy the same product directly from us. It is quite apparent from this that the Fenestra distributor is not in a position to give the local contract hardware people any great competition in their hardware business.

I do not want you to pass this information along to anyone. I felt it best that you have the whole story so that you would be prepared to defend Sargent's position if this becomes necessary. I have seen some letters from our competitors written to the Contract Hardware Association where they are weeping bitter tears over Sargent's part in this vicious plot.

(Gray Dep. Exh. 43, January 1962)

B. Defendants met on a monthly basis to prevent and police cutting of prices.

The defendants reviewed the pricing of contract hardware and effectively controlled price-cutting by dealers through monthly meetings attended by representatives of Emhart (Corbin and Russwin), Sargent, Ilco and Yale. The regular participants were Leo Pantas and Fred Dunning (Yale); J. B. Duff, Herman Giese and Forbes Sargent (Sargent); John Meyer and George Wheatley (Ilco); William Ziegenhein, James Parker and L. Curtis Booth (Emhart).

(Booth Tr. 17; Pantas Tr. 23-24)

These meetings were held at the Yale Club in New York under the auspices of the Builders Hardware Manufacturers Association (BHMA). L. Curtis Booth testified to the purposes of these meetings as follows:

Q Did you discuss general price levels for hardware, finished hardware?

A Not as such. We always would receive at our plants reports of prices on specific buildings coming in from all over the country to us. And as we would chart those it could develop a pattern showing that in one section of the country or another somebody was perhaps not quoting up to their full published prices.

Q Did you have occasion to exchange pricing information with any of these representatives of other hardware manufacturers?

A Well, to the extent that I have mentioned before as a developing pattern showing that one or the other might be cutting prices in an area. We tried to take them to task for it to get it straightened out.

* * *

A [E]ach of our competitors had our price book and we had theirs.

Q And whenever there was a change in the prices in your price book you would inform your competitor?

A Yes, the changes would go to them.

(Booth Tr. 18)

Other documentary evidence discloses the exchange of information among defendants to keep prices charged by their dealers artificially high. For instance, in a letter dated March 18, 1965, McCulloch, general sales manager and vice-president -- sales of Russwin, criticized the southern sales manager, Glenn Wiley, for cutting prices "on a couple of jobs where we had agreed here in New Britain for certain political reasons not to cut prices."

(Yale Dep. Exh. 25, March 1965)

In another memorandum, McCulloch requested W. J. Ziegenhein, executive vice-president of Emhart, to talk to J. B. Duff (Sargent) and "find out if they would make sure that Fenestra [a Sargent customer] in selling the Sargent hardware sell it above their book price. For if they're not, this then will cause Ceco [an Emhart customer] possibly to sell our hardware under our book price and then you know we can be in trouble."

(Yale Dep. Exh. 27, December 1962)

An internal Sargent memorandum reads: "As you know it is essential that we control prices from New Haven."

(Rhynedance Dep. Exh. 24, June 1965)

J. B. Duff wrote the Sargent sales managers: "There is nothing more important today than the effort to stabilize the price situation."

(Gray Dep. Exh. 10, February 1959)

C. The maintenance of price structures.

The defendants adhered to certain methods of pricing in order to keep prices high. In a memorandum from Eli Yale, sales manager of Sargent, advising his regional sales managers not to give price concessions, Yale stated that "it is imperative that we keep the price structure under as rigid control as possible" and "it is of the utmost importance not to upset any pattern of operation which can be interpreted by our competitors."

(Gray Dep. Exh. 12, Jan. 1962)

In this connection, W.C. Bierds, price supervisor of Emhart, advised Tom O'Neill, general sales manager of Russwin, that all manufacturers follow the same practice with respect to prices of locksets with wrought knobs and cast roses or vice versa. Bierds stated:

> This situation, as you must know, has been strictly adhered to in methods of pricing by all manufacturers, and it would upset our pricing structure if we were to deviate and throughout the years we have kept our hands clean in this matter.
>
> (O'Neill Dep. Exh. 8, April 1965)

D. The price fixing conspiracy was implemented by arrangements between defendants' salesmen.

Documents reveal that sales representatives for defendants exchanged information regarding particular projects or customers to maintain price levels. For instance, a Sargent sales memorandum relates that the Corbin and Sargent salesmen conferred together to raise the prices of locksets from $11 to $12 per set in sales to the Holiday Inns.

(S-399, January 1962)

II. THE DEFENDANTS AGREED AMONG THEMSELVES TO ELIMINATE COMPETITION ON EXISTING MASTER KEY SYSTEMS

A. The industry-wide understanding against breaking masterkey systems was adopted and enforced to prevent price competition among dealers.

Correspondence and internal corporate memoranda prepared during the conspiracy establish an industry-wide agreement among defendants against bidding on another manufacturer's masterkey system, which was implemented throughout the country, strictly enforced, and carefully concealed. Defendants secured adherence of distributors to this policy or put them out of business. As McCulloch explained to Russwin's Chicago area sales manager, distributors were not allowed even to submit quotes to supply their brand of contract hardware for an extension to another manufacturer's masterkey system:

> [I]t is an industry policy, you might say, and if one of the division's dealers deliberately breaks another masterkey system, we are well within out rights to withdraw our line from such a dealer or even if he doesn't break the system, if he bids on such a system.
>
> (McCulloch Dep. Exh. 31, Feb. 1965)

The defendants euphemistically prohibited the "breaking of a masterkey system." In a technical sense, the term "breaking" means to furnish another brand of contract hardware to an existing masterkey system so that the new locks cannot be operated with the same set of keys. But, as defined and enforced by defendants, the policy against breaking a masterkey system kept distributors from offering to sell contract hardware for someone else's masterkey system, even though the dealer intended to furnish cylinders and locksets from the original manufacturer or otherwise compatible with the existing system. Nor did it matter that the owner or architect did not care to extend the existing masterkey system with the same brand of contract hardware, and wanted a lower price

through competition on the extension, rather than the supposed convenience of having only one masterkey. Defendants' conspiracy was aimed at preventing just such price competition. As McCulloch stressed in 1965 to a joint meeting of the industry's trade associations, the ASAHC and BHMA:

> The system is "broken" when a low bid from a competitor forces the owner through economic pressure to establish a new system.
>
> (AS 1139, October 1965)

Moreover, defendants prohibited their distributors from offering to extend masterkey systems by supplying the contract hardware of another manufacturer, rather than their own. For example, McCulloch advised a Russwin salesman in 1963 that it would be necessary to terminate a dealer for "unethical tactics and practically breaking a key system" because the dealer purchased Corbin hardware from someone other than the dealer to whom the masterkey "belonged." McCulloch was emphatic:

> You know our policy on this. Even though they actually haven't broken a P & F Corbin system they bid into some and this is against our policy.
>
> (McCulloch Dep. Exh. 32, October 1963)

Defendants are the only full line manufacturers of contract hardware. In return for the protection against competition on masterkey projects (and assignment of exclusive sales territories), defendants required that their dealers not carry any other full line manufacturer's hardware.

> (Gray Dep. Exh. 1, April 1962;
> Gray Dep. Exh. 2, April 1963;
> Gray Dep. Exh. 6, August 1965;
> Salaman Dep. Exh. 9, June 1961;
> Salaman Dep. Exh. 11, January 1959;
> Wiley Dep. Exh. 47, November 1963)

Defendants enforced their restrictions against competition in the sale of contract hardware for any construction that involved additions to structures with masterkey systems, or new buildings that could be tied into an existing masterkey system, even though the owner's specifications did not require the continuation of a masterkey system. As one example, the State of Mississippi sought to obtain competition on masterkey work by not permitting specifications on public construction to read "keyed to an existing system." But Russwin still insisted that "dealers protect each others masterkeys." In a 1962 memorandum to Bauman, general sales manager of Corbin, McCulloch stressed:

> It would seem to me that even though it isn't in a spec, and if people know it is a bonafide key system, they should honor each other.
>
> (McCulloch Dep. Exh. 35, April 1962)

McCulloch advised Bauman that he told Russwin's southern sales manager, "I'd rather lose the job to Y & T [Yale & Towne] than to be instigator of breaking key system."

(McCulloch Dep. Exh. 34, March 1962)

In another incident, the Corbin sales manager, T.A. McGuiness, asked the Russwin sales manager, W.C. Lichtenfels, to prevent Russwin dealers from bidding on an addition to the Myrtue Memorial Hospital in Harlan, Iowa, despite the fact that the specifications did not require Corbin. Lichtenfels thereupon "called Deady [midwest sales manager] and asked to have Curries not bid it."

(Deady Dep. Exhs. 14 and 15, January 1965)

In practical terms, these restrictive agreements meant that once a building in a school district had a particular manufacturer's hardware, only the distributor who originally furnished

the masterkey system was allowed to sell contract hardware for additional buildings constructed anywhere in the school district.

(Bauman Tr. 165)

For instance, the existing Sargent masterkey system in the Topeka, Kansas school district meant that no one besides the protected Sargent dealer could sell contract hardware for any school there. When a Yale dealer submitted the low bid to supply hardware for a new elementary school, Sargent put a "stop" on any order for that masterkey system and advised its dealers "not to accept the order for the locks."

(Yale Dep. Exhs. 4 and 5, April 1963)

The evidence leaves no doubt that defendants eliminated competition on masterkey jobs to keep contract hardware prices at artificially high levels, not to protect the owner and the "security" of his masterkey system. As acknowledged in a memorandum circulated among Sargent's sales executives, industry-wide adherence to the policy against competition was pursued to maintain artificially high and non-competitive prices for contract hardware:

> In this regard we cannot tolerate a Sargent distributor bidding a job specifically laid down to another manufacturer's existing masterkey, any more than we can tolerate another manufacturer's distributor bidding an existing Sargent masterkey. Such unethical bidding not only results in a depressed selling market, but produces a retaliatory market having a far reaching effect.
>
> (Gray Dep. Exh. 51, January 1964)

This policy against competition is boldly set forth in Russwin and Corbin sales manuals with respect to "Breaking Master Key Systems":

> Over the long pull the deliberate breaking of any manufacturer's key system by any dealer is not a sound policy. Every manufacturer and every dealer has the same privilege and if every one pursued

this policy, master key systems as such would have no value to the dealer or to us as manufacturers.

(Lichtenfels Dep. Exh. 31, August 1969; Bauman Dep. Exhs. 78-A and B, April 1960; Bauman Dep. Exhs. 79-A and B, August 1963)

Taking a Russwin dealer to task for bootlegging Corbin hardware, McCulloch explained the "ethics in our industry and ... the ethics of the American Society of Architectural Hardware Consultants": a dealer is "entitled" to masterkey jobs "without having outside competition." The sale of hardware to infringe on jobs of another manufacturer "can be a two edged sword and can be turned on you in the same manner by your Corbin competitor or let's broaden it even further, Yale, Lockwood and Sargent...."

(Bauman Dep. Exh. 18, March 1963)

McCulloch cautioned that interference with a masterkeyed job "just isn't right whether it's Russell & Erwin, Corbin, Sargent, Yale, etc."

(Bauman Dep. Exh. 19, Apr. 1963)

Defendants repeatedly advised their salesmen and dealers against competing on jobs reserved for other manufacturers, pointing out that the restrictions operated to everyone's financial benefit and that "the shoe can be on the other foot someday."

(E-8359: Memorandum from McCulloch, Aug. 1962)

McCulloch explained to a dealer that there was an "industry-accepted policy" that dealers not bid on another manufacturer's masterkey system and suggested that the dealer "refrain from bidding on existing masterkey systems, even though you might be bidding it innocently and shall I say 'cooperating'."

(McCulloch Dep. Exh. 44-A, June 1965)

Roy Salaman, former western sales manager for Sargent, testified that "the builders hardware industry generally respect a competitor's master key system"

(Tr. 100-101)

and that it was "the practice in the hardware industry for manufacturers not to break competitor's master key systems."

(Tr. 103)

B. The industry-wide agreement not to compete on master-key jobs was known to be unlawful.

The industry-wide restriction of competition on master-key jobs, maintenance of inflated prices through customer and job allocations, and enforcement of these policies were intentional violations of the antitrust laws. Defendants acknowledged this in contemporaneous memoranda which reveal how defendants deliberately ignored the antitrust laws. Correspondence of McCulloch, a key figure in the policing of the industry-wide price-fixing, job allocation and restrictive sales policies, tells part of the story:

> Everyone understands our sales policy. I am sure, regarding continuation of masterkey systems that have been established by dealers other than themselves. We, of course, can't enforce this legally because of our friend, Kennedy. However, our policy is that dealers live and let live as far as existing key systems are concerned.
>
> (McCulloch Dep. Exh. 47, Jan. 1963)

> Legally, we can't force another dealer not to bid another man's key system. We have had this up with our lawyers many times. Uncle Sam frowns on this policy and calls it collusion and a monopoly, so our policy is based on dealers having good will towards each other and trying to work together as I know you do.
>
> (McCulloch Dep. Exh. 48, June 1961)

> Basically, our policy is a moral policy and one that, I'm afraid, Uncle Sam wouldn't uphold us in a court of law about restriction of territories. This word "franchise" that we all use is fine sounding but unless we really mean it deep inside us it doesn't mean a thing. This goes for Lockwood as well as anyone else. What we are trying to do and I'm sure Lockwood is, too, is to get people to think right, live together, and work together.
>
> (McCulloch Dep. Exh. 49, July 1961)

Because defendants knew that their conduct was illegal, they took great pains to leave no evidence of their collusion and agreements in restraint of trade. Dave Oaks, a former salesman for both Russwin and Sargent, confessed that defendants were careful to enforce sales policy against distributors verbally because they "understood it to be illegal."

(Oaks Tr. 32)

In this connection, McCulloch told his sales personnel that Emhart's counsel had advised that the prohibition against bidding on another dealer's masterkey job was "pretty collusive" so "we don't believe we can put this into writing. If we say it, then that's one thing but in writing of course, it's another."

(McCulloch Dep. Exh. 50, April 1964)

On another occasion McCulloch advised that allocation of masterkeyed jobs "should all be done by telephone or word-of-mouth in a visit."

(Wiley Dep. Exh. 13, July 1961)

Tom O'Neill, a successor to McCulloch as Russwin's general sales manager, expressed the same apprehension with regard to allocation of masterkeyed jobs by the manufacturers:

> Generally speaking it is not well to put this sort of thing in writing no matter how it is worded.... Let's watch out for the use of the word "agree" when there are more than two parties involved.... A very dangerous word. When it comes to MKS we don't ask their agreement to our policy. We set it and we enforce it with or without agreement.
>
> (O'Neill Dep. Exh. 18, August 1965)

Similarly, George Rhynedance, regional sales manager for Sargent, cautioned his salesmen with respect to the refusal to fill orders of a distributor to prevent bootlegging to a Corbin account:

> Do not put this in writing, but handle this on a verbal basis....
>
> (Rhynedance Dep. Exh. 11, April 1965)

In this connection, Eli Yale, general sales manager of Sargent, warned his regional sales manager, Roy Salaman, not to include conversations with dealers in his weekly reports -- because of "problems such as recently experienced in California." These "problems" were criminal and civil actions filed against the defendants and distributors by Richard Cure, a terminated Ilco dealer, and the State of California.

(Yale Dep. Exh. 2, April 1964)

C. The agreement to eliminate competition on masterkey projects operated as a "horizontal" conspiracy among defendants.

The horizontal nature of defendants' restrictive agreement is apparent; it would not constitute "breaking a master key system" for one Russwin dealer to sell hardware to extend a masterkey system orginally sold by another Russwin dealer. By definition, the term "breaking a master key system" refers to the sale of a different brand of contract hardware for an addition to an existing masterkey system.*/

As a matter of fact, Emhart's assistant general counsel, Sherman Carpenter, interpreted the company's sales manuals as reflecting a horizontal agreement among manufacturers. In response to an inquiry from Gene Deady, midwest sales manager, about the meaning of the standard practice against breaking masterkey systems, Carpenter wrote to McCulloch:

> This standard practice deals essentially with the problems Russwin, and more particularly a Russwin

*/ As discussed later, defendants reinforced their horizontal agreement to eliminate competition on masterkey jobs by allocating existing masterkey systems among their own distributors and prohibiting distributors from bidding on masterkey systems they had not established or been assigned.

> dealer, might have with a Corbin dealer or a dealer of some other manufacturer. (Emphasis added)
>
> (Lichtenfels Dep. Exh. 34-A, March 1962)

McCulloch sent Carpenter's memorandum to Deady with the notation:

> This deals with Russwin dealer vs. Corbin dealer and/or the world, not with Russwin dealer vs. Russwin dealer in the same territory.
>
> (Lichtenfels Dep. Exh. 34-D, March 1962)

D. Defendants restrained their contract hardware distributors from competing on masterkey systems of other manufacturers.

Each defendant had general sales policies which prohibited dealers from bidding on another manufacturer's masterkey system. The record contains written directions circulated by defendants to all sales personnel and dealers requiring adherence to the general policy, as well as specific threats to disobedient dealers and assurances to protected dealers.

Emhart Corporation

The sales manuals of Russwin and Corbin throughout the conspiratorial period stressed the general industry prohibition against breaking masterkey systems. In 1957, W.J. Ziegenhein, vice-president of Russwin, wrote to all salesmen asking them to make certain "that our dealers refrain from quoting" jobs with another manufacturer's masterkey system:

> You are all thoroughly familiar with our policy as it relates to efforts made to break any manufacturer's masterkey system. This is extremely bad practice not only from the moral standpoint but it can work in reverse as well and give the competitor reason to break our system.
>
> * * *

> In specific instances where this matter is brought to our attention, it will be necessary for us to refuse orders for locks....
>
> (Lichtenfels Dep. Exh. 30, March 1957)

The sales manuals prohibited the "breaking of masterkey systems" by any dealer and provided that "each supervisor will be held accountable for adherence to and strict enforcement of standard practice" with respect to "breaking masterkey systems." Russwin further warned:

> It is now emphatically stated that it is your responsibility to stop such practices yourself, as well as to stop any dealer who is now or in the future making efforts to break the other dealer's master key system. If you are not successful in stopping the dealer, then you must report it to the sales manager for further action from New Britain.
>
> It is your responsibility to thoroughly discuss this policy matter with every one of your dealers and be sure they completely understand this policy will be enforced.
>
> (Lichtenfels Dep. Exh. 31, August 1959)

As revised in 1965 by McCulloch, the Russwin policy against breaking masterkey systems read, in part:

> It is your responsibility to always practice this policy personally and to make certain that all your distributors and their personnel are fully informed of this policy at all times. If you have reason to believe a distributor has or is attempting to violate this policy and you have clearly pointed out to him the policy, you must report such a situation without fail to your manager and the home office. If you don't and an investigation clearly indicates that you were aware of such a violation and took no action, this could be cause for dismissal.
>
> (Lichtenfels Dep. Exh. 32, October 1965)

Carl Bauman reiterated Corbin's policy to protect "established masterkey systems" in letters to all salesmen and to all contract hardware dealers. By letter "to all contract

customers," Bauman warned against the dangers of competition:

> It appears obvious to us that many dealers are not realizing the effect that promiscuous breaking of established key systems may have on the security of a particular building. Certainly, this can always be a two-edged sword whereby one dealer breaking another dealer's system may be subjected to the same medicine at a later date.
>
> * * *
>
> Why do people try to break masterkey systems?
>
> 1 - By forgetting to follow the Golden Rule or the ethics of the Code of the Society, which clearly spells out the intent of masterkey systems and what constitutes breaking such a system.
>
> (Bauman Dep. Exhs. 81-A and B, November 1963)

Bauman sent a copy of the foregoing letter to all salesmen with a cover letter noting that "our Standard Practice clearly outlines what our policy is on masterkey systems, and you, as our representative, should adhere to this policy at all times." The danger of competition was explained in the following language:

> I am sure we all recognize that the old saying, "who casts the first stone" can quite frequently apply to situations that develop on masterkey systems. It is far better to maintain the status quo in such instances than to be the "bull in the china shop" and raise doubts in the minds of individuals when it pertains to a valid masterkey system.
>
> (Bauman Dep. Exh. 80, November 1963)

Emhart's internal memoranda leave no doubt of its commitment to the illegal restraints.

(i) As early as 1951, Corbin's "N.Y. Office Sales Policy" provided: "We will not under any conditions make a quotation where the specifications require a continuation of another manufacturer's master key system."

(Parsons Dep. Exh. 5, September 1951)

(ii) Corbin's vice-president Booth stated that additions "to an existing master key system of some other manufacturer" should not be handled by Corbin.

(Booth Dep. Exh. 3, November 1956)

(iii) Corbin's sales manager Parsons instructed salesmen that he felt "very strongly about breaking a masterkey system, whether it be ours or somebody elses."

(Parsons Dep. Exh. 12, March 1962)

Sargent & Company

Sargent promulgated and enforced its sales policy in line with the illegal agreement among manufacturers not to compete on masterkey systems. A sales letter from J.B. Duff, vice-president, to all regional sales managers, begins:

> There has been considerable trouble about the breaking of masterkey systems. It is the policy of Sargent & Company to respect bonafide masterkey systems of competitors. (Emphasis added)

(Gray Dep. Exh. 9, August 1959)

Sargent restrained its dealers from bidding masterkey systems of other manufacturers to protect its own jobs from competition. As Rhynedance wrote to a Sargent salesman:

> You sent me a note with this #3 bidding report indicating that Corbin was foolish to go down this low on their own masterkey, however, I think the obvious question is what are we doing bidding a Corbin masterkey. They obviously find it necessary in order to protect their own masterkey systems.
>
> You realize, of course, that this kind of bidding only invites retaliation. I would like to have some explanation of why our customer bid into a competitor's masterkey system.

(Rhynedance Dep. Exh. 9, March 1967)

New dealers were instructed by salesmen that Sargent "requires complete adherence to our sales and distribution policies such as never bid on a masterkey that was established by someone else."

(Yale Dep. Exh. 3-B, January 1964)

The restriction against bidding on an existing masterkey system applied to both private and public work, as Roy Salaman, western

sales manager, advised a dealer:

> ... the builder's hardware industry in general has tried to respect the other fellow's master key systems. This can be done without antagonizing the contractor. He could be quoted a price [i.e., a complimentary bid] and the distributor need not put in a lot of unproductive work in figuring the job. In this cooperative way peace is kept in the family, the owner has master key convenience and no one need be antagonized.
>
> As to this being a government job, master key systems can still be maintained.... Few public jobs today do not have some government money in them. If the policy you have taken in this case were followed by all distributors the industry would be in a sorry position insofar as master key protection is concerned.
>
> (Salaman Dep. Exh. 17, May 1962)

Ilco Corporation

The documents show Ilco's adherence to the illegal agreement, or so-called "code of ethics" for the contract hardware industry. Earl Materne, national sales manager, wrote to his sales force in 1966: "A very eminent segment of this code of ethics is the recognition of the rights of others and the importance of conscientiously abiding by non-infringement of marketing areas of other associate contract distributors."

> It is most important -- from both a moral and an economic (from which all such codes of ethics are derived) standpoint that everyone, most particularly those in this company, observe both by letter and spirit this code of ethics -- and make it their personal responsibility to see that it is not subverted by their direct action or inaction -- for one is just as morally unacceptable as the other.
>
> (Materne Dep. Exh. 9, January 1966)

In this connection, George Wheatley, the contract hardware product manager for Ilco, complained to representatives of Ilco's competitors at a chapter meeting of the trade association (ASAHC) about "the unhealthy situation existing at the present

time, relative to prices and also on the matter of breaking master key systems."

(Wheatley Dep. Exh. 1, February 1959)

Ilco's restraints were effective. For instance, when bids were solicited for the Albert Einstein School of Medicine in New York, Ilco refused to compete. George Newmier, the local sales representative, wrote to Crissman, vice-president of Ilco, and Materne:

> ... all jobs coming out the Yeshiva University have been subject to an existing Sargent & Co. grand master key system and therefore untouchable.
>
> (Crissman Dep. Exh. 10, April 1965)

Eaton Corporation ("Yale")

Yale participated in the industry-wide prohibition against supplying additions to masterkey systems of another manufacturer. As early as 1932, Walter Allen, Yale & Towne's president (together with sales executives of Corbin, Russwin and Sargent), admitted, that:

> ... for many years, trade ethics have debarred most of the principal manufacturers from competing in the furnishing of the finishing hardware ... where an existing key system not their own was pecified for extension.
>
> (Pantas Dep. Exh. 3, October 1963)

Accordingly, Yale routinely declined to bid on jobs specified as additions to competitors' masterkey systems. For example, in 1964 Yale's vice-president, Leo Pantas, declined to sell hardware for an addition to a Sargent grand masterkey system.

(Pantas Dep. Exh. 11, April 1964)

Yale distributors took the same position:

> Q Did Yale ever receive assurances from any of its distributors that they would not bid on projects specified as additions to a competitor's master key system?

A Well, without fail, everyone who wrote a letter complaining said I would never do a thing like that.

(Talgo Tr. 118)

Yale fully appreciated that its competitors would reciprocate by not bidding Yale masterkey additions. Thus, James D. Young, general sales manager, stated in 1962 to the contract account manager that "there are many jobs Yale distributors secure as the result of a Yale master key system, where there is no competition."

(Pantas Dep. Exh. 15, March 1962)

In the same vein, Yale's Jackson, Mississippi account wrote to Chuck Moody in Yale's order department in 1965 regarding an addition to Yale's masterkey system at an elementary school:

> The addition is not a big one, but we do need the master key information to insert in the schedule to make sure our competitors don't quote on this Master key system.
>
> (Talgo Dep. Exh. 8, December 1965)

Similarly, Los Angeles Hardware Co. told Harry Talgo, marketing manager for contract hardware, that the 1963 addition to a Yale masterkey system at the Los Angeles County General Hospital would be non-competitive:

> Ethical practices of most manufacturers are such that we have no fear that there will be bids from any other distributor of a major line.
>
> (Talgo Dep. Exh. 29, May 1963)

The conspiracy embraced not only defendants, but Schlage Lock Company, as well. In response to an inquiry from Bauman, a Corbin regional sales manager reported:

> Our activities in Richmond in regard to Schlage masterkey systems previously established has been the same as anywhere else. We have never tried to break into anyone's masterkey system.
>
> (Parsons Dep. Exh. 8, September 1961)

Schlage, of course, reciprocated by not competing on defendants' masterkey systems. On one occasion, the agreement appeared to break down for McCulloch requested O'Neill (with a copy to Ziegenhein) to document instances where Schlage tried to break Russwin masterkey systems so that McCulloch could raise this issue at the next trade association meeting. McCulloch's instructions read:

> Please get for me and have in my hands before I leave for the Miami Convention, which is October 13th, any job that the Schlage Lock Company have either taken or attempted to take where bonafide Russwin Key Systems were in effect. I would like to have the name of the job and the locality. This is very important ... we want actual cases not suppositions or border line cases.
>
> (O'Neill Dep. Exh. 13, September 1961)

E. Defendants allocated particular customers and jobs.

In addition to their general agreement and policies, the evidence discloses more specific arrangements amongst the defendants to limit competition by their dealers on masterkey work. One such meeting occurred in 1961, which was attended by Harry Talgo, Yale's regional sales manager; Glenn Wiley, Russwin's southern sales manager; Eli Yale, Sargent's sales manager; and "local representatives of Yale, Corbin, Russwin, Schlage and Sargent." Eli Yale reported that he

> ... attended a contract distributors' meeting in Durham, North Carolina.
>
> Almost 100% of the Contract Distributors in North Carolina attended, as did representatives of the major Lock Manufacturers. This included the local representatives of Yale, Corbin, Russwin, Schlage and Sargent.
>
> In addition to myself the district manager of R&E attended and also Harry Talgo from Yale's New York office.
>
> The distributors held the meeting to discuss with the manufacturers, the increasing problem of unqualified dealers bidding on contract work.
>
> (Yale Dep. Exh. 26, March 1961)

The meeting was part of a "program" to restrict sales of contract hardware to dealers who were members of the ASAHC and would abide by the "code of ethics" against breaking masterkey systems. As Yale explained:

> Q At the meeting in Durham, North Carolina, described in your memorandum of March 10, 1961, didn't the contract hardware distributors request the manufacturers present -- Yale, Corbin, Russwin, Schlage and Sargent -- not to sell contrace hardware through distributors other than the established contract hardware distributors?
>
> A The request and discussion at the meeting was part of a program that this group had in establishing or upgrading, so to speak, the responsibility and the image of the ASAHC member. And the program here was to try and get the architects to write in their hardware specifications that the only hardware dealers or distributors that would be allowed to bid on their project must have a full time AHC in their employ.
>
> On the other hand, they were asking the manufacturers here not to add any distributors or sell to any new distributors that didn't have a qualified AHC on their staff. And this happened to be somewhat of a peculiar situation to the North Carolina area because there were so many small hardware jobbers and old hardware companies in the area.
>
> (Yale Tr. 199-200)

The documents obtained from defendants record numerous instances of collusion or "cooperation" among the defendants and dealers of other manufacturers on particular jobs.

(1) McCulloch explained the rationale for "understandings" with competitors in a letter to a Texas dealer:

> I also did not mean that you should work out a collusive arrangement with the competition, but merely an understanding such as they have in Los Angeles. I don't agree with you.... I think you do have to throw the competition a fish now and then.
>
> You also mentioned that you don't think that n[illegible] prices will ever work in Dallas. I'm inclined to agree with you that they are probably not working in Dallas at the time, and again I say, this may be because of the influence of the Billings

> Corporation. Naturally, we expect tough competition when a new firm goes into business, it is natural for everyone to try to keep them out, but for you to say, that net prices will never work, I think you are way off. The only way they will work is for you to cooperate (now and then) this is the point we are trying to get at.
>
> You know how terrible the New York market was for years, well even their market is straightening out and that has been one of the worst places in the United States. So things can be worked out if people have understandings and are willing to be reasonable. */
>
> (McCulloch Dep. Exh. 12, December 1962)

(2) Ilco prohibited one of its dealers from bidding in territory assigned to a Russwin dealer. In a telephone call on January 17, 1962, Robert Hicks, Ilco's western sales manager, warned his account Cure & Company not to bid on school construction in the area reserved for Russwin's Los Angeles dealer (Ventura County, California). Richard Cure argued that he had "no problem in getting [Lockwood hardware] approved," but Hicks responded:

> HICKS: Well, Dick, I think this is just like ground we've been all over. It is in Ventura County and it is a specification that these other people have written in their material, and, ah, if we take the job from up there, then we're going to lose a job down here. I don't see any particular reasoning to it.
>
> CURE: Well, I just wanted to know whether it made any difference whether we had the security key system in that school district or not.
>
> HICKS: No, they're not, they're not particularly interested in the key system and according to my way of complaint when they got into the Ventura area, we're pretty well regulated by the way the people play down here.
>
> CURE: Yea.
>
> HICKS: We have these associations.
>
> (Hicks Dep. Exh. 3, January 1962)

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*/ It should be noted that the "understanding" in Los Angeles resulted in civil and criminal suits against defendants.

(3) On June 18, 1970, Glenn Wiley, southern sales manager, reported to Tom O'Neill, vice-president of Russwin:

> Since 1958, we and Sargent have had a joint key system in the Alachua County (Gainesville, Fla.) school system.
>
> In November of 1969, Jr. & Sr. High School A and Jr. & Sr. High School G were bid and the specs (Russwin) stated they were to be set to either the existing Russwin or Sgt. County school system. (Factory order #41812-1958).
>
> We had this deal set up, the Sgt. account was to handle the metal and Misc. materials and we were to furnish the hardware.
>
> (O'Neill Dep. Exh. 6)

(4) On July 14, 1969, Wiley reported to O'Neill:

> Attached are 6 orders from T & G. With reference only to 13676, Gilchrist Training School, this is a new GMK system. We thought we had this one set up. The Sgt. dealer went along, but Knight & Wall, Tampa-Yale came in at the last minute, $7,000 low.
>
> (Wiley Dep. Exh. 20)

(5) McCulloch instructed Gene Deady, then midwest sales manager, to prevent a dealer from bidding on work unless cleared through the Russwin sales executives to make certain the bid did not upset "arrangements" among defendants. The particular situation giving rise to McCulloch's letter involved the Russwin dealer bidding (at low mark-up) on a job that everyone had agreed to give the local Ilco dealer. As McCulloch stated:

> This job apparently was set up for Howell [Lockwood dealer] and Morrison [Hines Lumber] was going to cooperate because he was to get something in the future. You know how these things are and I think we have to recognize these things. So does S & S.
>
> (McCulloch Dep. Exh. 14, March 1962)

(6) By letter of May 7, 1959, McCulloch cautioned a Russwin dealer:

> As you know, there has always been an unwritten law in the Tampa - St. Pete area that dealers [of all manufacturers] in both areas do not bid

> in the other dealer's area. Remember you are new, Dick, and I wouldn't proceed to hastily in view of this as you could get possibly hurt.
>
> (McCulloch Dep. Exh. 16; McCulloch Tr. 133)

(7) In a 1956 memorandum, Corbin's vice-president L.C. Booth related that he had attended a meeting with distributors for other manufacturers for the purpose of ending price competition:

> We discussed the New York situation in considerable detail, expressing our dissatisfaction with the method of allocating jobs, and suggesting in place of it, that the New York Dealers Association work on the basis of letting the man who writes the specifications have the job.
>
> This sort of thing is working very statisfactorily in Los Angeles. It eliminates all of the problems in any other system and puts the emphasis on working with the architect and selling at the specification level, rather than working with the contractor and selling at the price level....
>
> * * *
>
> It should eliminate all of the heart-breaking work of trying to sell jobs in a cut-price market, where you cannot believe what a contractor tells you or what your competition tells you.
>
> This is not going to happen overnight and will only work if all of the dealers involved, as well as the manufacturers, go at the thing in good faith.
>
> I think you should keep this letter very much out of sight, as it is of a confidential nature.
>
> (Booth Dep. Exh. 4, June 1956)

III. ENFORCEMENT OF THE ILLEGAL AGREEMENTS AGAINST BIDDING ON ANOTHER MANUFACTURER'S MASTERKEY JOB

A. Defendants acted together to keep their distributors from competing on masterkey work.

Sales executives of the defendants communicated directly with one another to report price-cutting by distributors or infringement upon "protected" work. In response to such complaints defendants took concerted action to restrain the offending distributor or prevent further disruption. Depending upon the degree of discipline needed, defendants would "persuade" the distributor to stay in line, force him to compensate the protected distributor for the job taken, refuse to fill his orders, threaten to terminate him and actually terminate him as a distributor. This section summarizes enforcement incidents that involved concerted action among defendants.*/

1. The Park Forest School incident.

By letter of May 11, 1965 to Rhynedance (Sargent), Standard Equipment & Supply Corporation (a Sargent distributor) complained about competition from a Russwin distributor on two elementary schools in Illinois and stated:

> We hope that you can stop any leaks that may exist in the raiding of Masterkey system.
>
> (McCulloch Dep. Exh. 51-A)

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*/ When special circumstances caused dealers to infringe on masterkey projects, defendants sought an explanation and reassured one another it was an exception. For instance, W.J. Healy, Chicago sales manager for Sargent, reported to Eli Yale with regard to a masterkey extension: "Thought you would like to have the details on this job as you may get a rumble from your 'friends' in New Britain ... R & E [Russwin]." He then explained that the local Sargent dealer, Ken Lee, had originally not bid the job, even though the specifications "were wide open," but the contractor (who was a friend) had received only one high bid and requested a quote from Ken Lee. Consequently, Ken Lee gave the contractor a price with a one-third mark-up over cost.

(Healy Dep. Exh. 1, June 1966)

Copies of this letter were directed to Eli Yale and J.B. Duff, the highest sales executives at Sargent. Eli Yale, in turn, sent a copy of the letter to McCulloch (Russwin) with the notation: "Ed, can you find out anything on this? Eli."

(McCulloch Dep. Exh. 51-A, May 1965)

Shortly thereafter, McCulloch complied by writing to William Maher, Russwin's Chicago area manager, with a "Blind Copy to: Mr. Eli Yale," advising Maher to prevent the Russwin distributor from competing on the Sargent jobs:

> I have heard through the grapeveine that it is alleged that Edward Hines Lumber Company either is breaking a Sargent master key or in some manner is furnishing Sargent locks and closers on two schools, known as the Richton Square School at Richton, Illinois and the Illinois School at Park Forest, Illinois.
>
> You know our very definite feeling about the breaking of master key systems no matter whose master key system is involved. Without indicating to our dealer that we are playing detective, I would like to have you investigate these two jobs and see what you can find out about them and advise me.

(McCulloch Dep. Exh. 51-B, June 1965)

Maher gave McCulloch a report on the situation, stressing that it was "not the intention of Hines [the Russwin account] to break the existing keys of Sargent."

(McCulloch Dep. Exh. 51-C, June 1965)

Sargent's internal reaction to this incident throws additional light on the nature of the conspiracy. Rhynedance forwarded Standard Equipment's complaint to the order department with instructions not to sell the hardware to any other firm.

(Yale Dep. Exh. 18, May 1965)

Rhynedance then advised Standard Equipment that:

> [I]f they attempt to break the masterkey, then I would say that they are in violation of the Code of Ethics, of the American Society [of

> Architectural Hardware Consultants] and could be brought before the Ethical Practices Committee in this regard.... We had a case recently where a Russwin firm gave an order to one of our distributors who deliberately falsified the order and sent it to us.... The upshot of it was that ... we cut off the distributor.... (Emphasis added)
>
> (Yale Dep. Exh. 20, September 1965)

Rhynedance advised Standard Equipment that it could offer to sell the Sargent material to the Russwin dealer "to maintain the masterkey;" otherwise, Sargent would "be on the lookout for this order to stop it internally before we accept it from one of our customers."

(Yale Dep. Exh. 20, September 1965)

2. The Erlanger Hospital incident.

This incident arose from a complaint by Crisman Hardware, a Russwin distributor, that a Sargent dealer had bid upon hardware for the Erlanger Hospital in Chattanooga, Tennessee. Crisman requested McCulloch to get Sargent not to furnish hardware to its distributor.

(Lichtenfels Dep. Exh. 23, March 1961)

Accordingly, McCulloch contacted Sargent. On March 17, 1961, he telegraphed Russwin's southern sales manager that:

> Sargent have advised dealer that they will not accept order for locks less cylinders or for locks to be used if our system stays in....
>
> (Lichtenfels Dep. Exh. 25; Wiley Dep. Exhs. 37 and 38)

In a subsequent intra-company memorandum, McCulloch noted:

> Erlanger Hospital -- Chattanooga, Tenn.
>
> I talked to Duff [J.B. Duff of Sargent] previously on this and he agreed to stop his acct....
>
> (Lichtenfels Dep. Exh. 27, Apr. 1961)

Nonetheless, McCulloch -- aware that his actions were illegal -- responded guardedly to Crisman in a letter dated March 17, 1961:

> As far as saying anything to Sargent about breaking a master key ... in view of the recent government case against the electrical companies, we are not too happy about discussing things like this with other manufacturers so that no one should get the idea that there is any collusive action between the hardware manufacturers.
>
> (Lichtenfels Dep. Exh. 24)

Crisman subsequently requested Emhart "to see that no other R & E dealer places the order for these cylinders" to extend the masterkey system at Erlanger Hospital. In response, Stu Force, Russwin's Administrative Assistant, assured Crisman that Russwin would enforce its illegal restraints on the sale of contract hardware. Force stated:

> We are being quite careful over this sort of thing, and Mr. John Meagley, our Contract Sales Manager, carefully scrutinizes each order to prevent the sale of masterkeyed cylinders to a builders hardware contract dealer outside the area under consideration, or who has not supplied a part or all of the job earlier. This all ties in with the industry's efforts to promote ethical practices with the trade. (Emphasis added)
>
> (Wiley Dep. Exh. 39, May 1961)

Meagley also responded to Crisman by letter of May 16, 1961, that:

> We will watch all orders here in New Britain carefully to see that these locks or even these cylinders are not placed by some unauthorized dealer.
>
> (Lichtenfels Dep. Exh. 26)

Knowing that Russwin would not sell cylinders to any other dealer, Crisman disciplined the Sargent account by charging "them a price of $7.50 or $8.00 each for the cylinders as Ed McCulloch had suggested."

> (Wiley Dep. Exhs. 36 and 40, March 1961 and May 1961)

This price was more than five times the regular price for cylinders.

3. The Sonar Station incident.

This incident arose from the complaint of a Russwin dealer that a Sargent competitor was bidding on Russwin master-key systems, and had thereby lowered the price structure in Florida.

(Yale Dep. Exh. 22, April 1961)

This complaint was relayed by Russwin's Florida salesman to McCulloch, who responded:

> I have your letter of April 24th regarding the accusations levelled by Taylor & Cotton against Sargent & Company account at Sarasota. This has been taken up with the Vice President of Sargent, and I am sure you will find this type of activity will cease.
>
> However, in taking the matter up with the Vice President of Sargent, he brought out the fact that Taylor & Cotton had done the same thing apparently on a Sonar Station somewhere below Miami to an existing Sargent masterkey. Is this a case of ... "the pot calling the kettle black?" (Emphasis added)

(Lichtenfels Dep. Exh. 28, Apr. 1961)

With respect to McCulloch's inquiry, the salesman explained that the Russwin dealer had not tried to take the job, but submitted an informal quote to the contractor at book price plus 33-1/3% just "to keep his customer happy." Nonetheless the salesman reported that he had "pointed out the dangers of this sort of thing" to the Russwin dealer and "convinced them that their actions look bad even if there was no intent to cause trouble." McCulloch directed this memorandum to Ziegenhein (Emhart) with a reminder:

> Bill -- B. Duff [Sargent] called you on this some time back. E.H.M.

(Yale Dep. Exh. 24-A, May 1961)

4. The Rosner Hardware incident.

On February 25, 1964, Earl Materne advised Sam Crissman, Ilco's vice-president, that Rosner Hardware, a newly appointed Corbin account, had caused problems for Abe Deutscher, an Ilco distributor. Materne noted that Deutscher had suggested that George Wheatley, Ilco's contract hardware product manager, should contact Emhart "to get Rosner to stop upsetting the market by quoting bids at book price." Materne seconded the suggestion in his handwriting on the face of the memorandum:

> G.E.W. [George Wheatley] should call Amer Hdwe [Emhart] and tell them that if they allow this situation that Deutscher will fight and we will have to back him. This will drop the price in the N.Y. area and could spread to the rest of the country.

Materne's additional handwritten notations record assurances given Ilco by Emhart that Rosner was not allowed to sell contract hardware items:

> 3/10 -- American Hardware claim not to be selling Rosner-Glucksman contract items and will not do so until they set up with proper personnel.
>
> American Hardware claim not set up as contract account - Claim to be selling at a price and they are working on 5% differential on full case quantity.

(Materne Dep. Exh. 14, Feb. 1964; Materne Tr. 66-67)

5. The LaMoor Field incident.

Yale requested the other defendants to enforce their agreement regarding masterkeys when a dissident stepped out of line. Bill McGreevy, Yale's western regional manager, complained directly to Russwin when the Russwin account in Sacramento bid on a Yale masterkey system. McGreevy reported the incident

to Yale's general sales manager:

> This fellow Don Kerwick respects no ones Master Keys and bid into ours at LaMoor Field which is a L.A. Hdwe. Key [the Yale account]. I called Jack Edwards and told him the facts of life. I also called the R & E [Russwin] man and told him to give that fellow the word. I think they finally bought the locks through L.A. Hdwe.
>
> (Talgo Dep. Exh. 6, undated)

B. Defendants prohibited their dealers from reselling - or bootlegging - contract hardware to eliminate competition on masterkey jobs.

As a means to enforce and police the restrictions against bidding on another defendant's masterkey system, defendants prohibited their dealers from "bootlegging" or reselling contract hardware to dealers of other manufacturers. Because the defendants assigned their dealers to exclusive sales territories and kept them from bidding outside their own territory, the prohibition against bootlegging effectively controlled the bidding upon masterkey systems in each territory. The defendants were well aware that each would block efforts by dealers to "bootleg" hardware.

(Hicks Dep. Exh. 2, January 1962)

In a letter to all Russwin salesmen McCulloch demanded enforcement of the prohibition against bootlegging:

> We not only have the breaking of master key systems by greedy distributors, but we have had some instances of greedy RUSSWIN distributors "bootlegging" contract goods to other than Russwin distributors.
>
> I'm amazed at how a man's greed can warp his judgment....
>
> We do not condone "Bootlegging" and will refuse any order here in New Britain where "bootlegging" is involved....

> It's your responsibility to your brother [illegible]men, as well as your company, not to allow "bootlegging" by any of your accounts.
>
> (O'Neill Dep. Exh. 9, November 1963)

Defendants strictly enforced this policy, as illustrated by the following incidents:

(1) On a project at the University of Nebraska in 1965, Sargent learned from its dealer that Dave Oaks, a Chicago distributor, had bootlegged hardware to a competitor in Omaha, Nebraska, who was able to take "this job at a very low price." Sargent's sales manager, Rhynedance, instructed the key department to stop the order and protect the local distributor. In a memorandum to William Healy, Sargent's Chicago sales manager, Rhynedance stressed "the evils of our distributors pirating materials to our competitors." He asked Healy to have

> a long serious discussion with Dave concerning this practice since we would very seriously consider removing the line from anybody that did this. I think it is obvious that Dave knew what he was doing and simply accepted the order. Please make it very clear to Dave that we look with disfavor on anyone who would do this.
>
> (Rhynedance Dep. Exh. 22-A, August 1965)

Shortly thereafter Healy reported back to Rhynedance:

> I plainly told Dave that we are very disappointed in this activity and that such incidents are grave enough for us to consider the removal of our line from distributors who work in such areas.... Dave stated that he didn't recall my telling him of this matter on 8/22/65 (7/22/65) at which time I informed the Ken Lee people and Dave. I laid it on the line to Dave indicating to him our complete displeasure for us to allow another "mistake" of this nature to occur with his account. I feel certain that we will have no further incidents of this nature with Dave.
>
> (Rhynedance Dep. Exh. 22-B, September 1965)

With respect to this incident Oaks testified:

Q During the period that you were a Sargent contract hardware distributor did Sargent have a policy against bootlegging?

A Yes.

Q Nonetheless did you ever attempt to bootleg?

A Yes.

Q Were you caught?

A Yes.

Q What happened after you were caught?

A Well, Mr. Healy came into my office and reiterated what Sargent's feelings were regarding bootlegging and told me that if this practice continued, I would be subject to termination.

* * *

Q Let me show you what have been previously marked as Rhynedance Exhibits 22-A and 22-B, and ask you to review those documents.

* * *

Q Do these exhibits refer to the bootlegging incident you have just testified about?

A This is the incident.

* * *

Q Did you have such a meeting with Mr. Healy, at which time he said in substance what is set forth in Rhynedance Exhibit 22-B?

A Yes, I did.

Q Did he in fact threaten you with termination if you bootlegged again?

A Yes, he did.

(Oaks Tr. 82-85)

(2) By memorandum to sales manager Geddes Parsons, Corbin's local salesman advised that he had caught a dealer bootlegging Corbin locks for the addition to the Sunnyhill Sanitarium job and told the dealer that Corbin would not fill the order. He instructed Parsons to cancel the order. The order was in fact cancelled.

(Kazmer Dep. Exhs. 10 and 11, August 1961)

(3) By letter of October 7, 1963, McCulloch asked Belknap Hardware (Russwin's dealer in Louisville, Kentucky) not to accept an order for hardware specified for the Texas Christian University. In the alternative, McCulloch suggested that Belknap send the order to him and that he would refuse it with the excuse that "this man is a competitor and is not able to service our hardware properly, he not being a franchised distributor."

(Maher Dep. Exh. 1, October 1963)

Belknap promptly agreed, stating:

> You are familiar with my method of doing business and I just want to assure you that I will not furnish any Yale, Corbin, Sargent, or any other distributor any Russwin hardware.
>
> * * *

> [I]f any Russwin distributor contacts you regarding any master keyed job that we did not establish, that you can safely say that I will not quote on these jobs....
>
> (Maher Dep. Exh. 2, October 1963)

(4) Yale's regional sales manager, Ken Lanyon, advised Yale's Baltimore account, Anderson & Ireland, that Murry Sell of New York could not acquire Yale hardware for use on the University of Maryland Medical Science Library job:

> Murry Sell knows himself that he cannot purchase Yale & Towne contract hardware for any job without first having an o.k. from this office, which he did not get in this instance.
>
> We have contracted various people at White Plains so should he try to secure the hardware through some other Yale distributor we have it well flagged, and it will be turned down in accordance with our usual policy.
>
> (December 9, 1958)

Several weeks later Yale's contract service supervisor advised that an "alert" had been issued that:

> No prices should be given to Murry Sell or any other account ... should Murry Sell try to obtain this hardware by going to an established contract hardware account.
>
> (Letter from Thomas P. Penna to Anderson & Ireland, December 24, 1958)

(5) When L & R Hardware Co. of Stockton, California, underbid the local Yale account, Roger Graham, on a job at the Willis Jepson School in 1960, regional sales manager Bill McGreevy alerted the home office:

> PUT A FLAG ON THIS ONE AND IT MUST BE PURCHASED THROUGH ROGER.
>
> (Talgo Dep. Exh. 56, September 1960)

McGreevy also sounded the alarm on another job at the Vallejo School District:

> Gordon McCall from Sacramento just underbid Roger on a small $800 order but it will have to be keyed to the existing GMK so flag it also for Roger. These orders could come from anywhere in the country.
>
> (Talgo Dep. Exh. 56, September 1960)

Yale's contract hardware service manager replied:

> Both of these orders have been flagged so that any orders that we get from an outside source will be referred to you for disposition.
>
> (Talgo Dep. Exh. 57, Sep. 1960)

(6) In 1962 when Corbin's New York City account, Heller Company, secured the order for additions to Yale master-key systems at Oyster Bay High School in Long Island and Columbia University, "alert" tickets were placed on Yale's key records for these institutions:

> [S]o that in the event Heller attempts to buy the cylinders or locks through some source that we will immediately catch the order before it can be entered.
>
> (Hettling Dep. Exh. 8, May 1962)

The protected distributor, Elmer T. Hebert, received a copy of Young's memorandum.

(7) In 1962 Young ordered his eastern regional manager to prevent bootlegging by McCadden Hardware Company:

> Watch McCadden Hardware very closely and make certain they do not assist any competitive hardware accounts in New York or undermine the sales activity of the Elmer T. Hebert Company....
>
> (Hettling Dep. Exh. 10, June 1962)

(8) Yale terminated persistent bootleggers. Thus, upon complaints from Harry Ambrose, its Vermont distributor, Yale terminated its upstate New York account. Massena Door Closer and Hardware Co. in 1966 for bootlegging Yale hardware to Russwin's Vermont account for jobs at Green Mountain College and the University of Vermont.

(Quedenfeld Dep. Exhs. 1 and 2, September 1966)

As Lou Quedenfeld, Yale's north-central regional manager at the time, testified:

> Q Isn't it a fact that Eaton decided to terminate Massena because it was reselling hardware to customers that Yale didn't want it to resell to?
>
> A That probably entered into the decision.
>
> (Quedentfeld Dep. Tr. 50)

C. Defendants enforced their restraints by warnings to distributors, refusals to deal, requirement that the protected dealer be compensated, and termination.

Defendants closely policed their dealers to prevent violation of their restrictive sales policies. Acting upon reports from dealers and salesmen, defendants secured adherence to the conspiracy by bluntly telling dealers to obey "our sales policy or to get out of business."

(McCulloch Dep. Exh. 45-B, July 1962)

The defendants made certain that dealers realized they were "not ... allowed to bid existing masterkey jobs of someone elses."*/

(McCulloch Dep. Exh. 45-A, June 1962)

The general sales policies of defendants effectively forestalled competition at the dealer level during the conspiratorial period. In specific cases, though, defendants asked dealers not to bid on certain jobs and told dealers not to accept certain orders from any other dealer.

(Rhymedance Dep. Exh. 21, November 1965; Lichtenfels Dep. Exh. 38, March 1964; Oaks Dep. Exh. 8, November 1965)

defendants frequently forced (or "pursuaded") dealers to withdraw unauthorized bids.

(McCulloch Dep. Exh. 46, May 1962)

For instance, Lichtenfels advised William Maher, Russwin's Chicago sales manager, that Edward Hines Lumber Co. had bid on an "existing Corbin key system." Lichtenfels asked:

> Would you please be kind enough to give us the necessary information as to why Edward Hines Lbr.

---

*/ The defendants' internal memoranda reveal their arrogant attitude toward their dealers. As Russwin's southern sales manager, Glenn Wiley, wrote to O'Neill: "If our position and policies are such, that we must let a small town Jew boy dictate as to how we shall operate our business ... then we sure have got ourselves between a hard place and a rock'."

(O'Neill Dep. Exh. 2, July 1967)

> Co. would break into a Corbin system and if they have violated our normal attitude, that they be instructed to gracefully withdraw, if possible?
>
> (Maher Dep. Exh. 11, October 1965)

In another case, Rhynedance assured a complaining Sargent dealer that another dealer had admitted his "mistake" in bidding on an existing masterkey system. He stressed: "It is our vowed intention to maintain the sanctity of our masterkeys in all territories. I am sure that the job in this case will be worked out to your satisfaction."

(Rhynedance Dep. Exh. 17-A, June 1965)

If a dealer actually competed on masterkey jobs, defendants enforced adherence to their sales policies by several means:

(i) Termination of maverick dealer.

(ii) Refusal to fill orders from the maverick dealer or anyone else who might bootleg the hardware to him.

(iii) Requirement that maverick dealer purchase the hardware from the protected dealer, share the profit, or otherwise compensate the protected dealer.

(iv) Disciplinary proceedings in the ASAHC.

The contract hardware dealers, of course, helped police the restraints upon competition by complaints when another dealer bid or offered to sell hardware for a "protected" masterkey project. By such complaints, these dealers reaffirmed their adherence to the conspiracy. The defendants, in turn, reassured these dealers that the maverick had warned or disciplined to stop any further competition, and sometimes compensated the offended dealer to keep him committed to the conspiracy.

This section discusses some of the enforcement incidents revealed in the documents. As additional evidence is assembled, plaintiffs intend to supplement these examples.

1. Termination of dealers for competing on masterkey systems.

(a) Emhart's termination of Witt Hardware Company of Davenport, Iowa.

(Lichtenfels Dep. Exhs. 3-9, February-August, 1964)

On Febraury 6, 1964, McCulloch telegraphed Witt: "For Sake of Family Peace -- Don't Break System."

(Lichtentfels Dep. Exh. 3)

Witt refused to cooperate with his Corbin competitor. As a result, Emhart terminated Witt, despite the fact that Witt's purchases from Russwin in 1963 "were the largest ever."

(Lichtenfels Dep. Exh. 6, March 1964)

McCulloch cautioned:

> No one should have any discussion with Mr. Witt as to why we are severing relations except that it is a decision of management.
>
> (Lichtenfels Dep. Exh. 7, July 1964)

(b) Yale's termination of dealers for bidding on masterkey systems.

In 1966, Yale terminated F. G. Norman & Sons, its contract account in San Francisco for "bidding into Yale's masterkey system."

(Hettling Dep. Exh. 2, June 1966)

The same year, Yale terminated Dalliare Builders Hardware Corp., its Manchester, New Hampshire contract account, for taking "pot shots at existing master keys."

(Hettling Dep. Exh. 4, Sep. 1966)

Pascock Lock Supply Co. of New Jersey lost its contract account status in 1963 "to avoid confliction with ... New Jersey Hardware Company ... particularly [on] masterkey systems."

(Hettling Dep. Exh. 12, July 1963)

In 1961, Yale terminated Anderson and Ireland, their Baltimore, Maryland contract hardware account, for bidding on existing masterkey systems. (This is also discussed in connection with the expulsion of Carr from the ASAHC).

(c) Hobbs Supply Co. of Eau Claire, Wisconsin (1961).

Upon complaint from Corbin's Minnesota dealer, Warner Hardware, that Hobbs had submitted a bid of $7,700 on a Corbin masterkey, compared to the protected dealer's "low" bid of $10,700,

(Parsons Dep. Exh. 13, June 1961)

Emhart sales officials noted "that Hobbs should lose the Russwin line if they attempt to go ahead with furnishing this job."

(Parsons Dep. Exh. 15, July 1961)

Corbin then informed Warner that it would not accept an order for this job from any other dealer.

(Parsons Dep. Exh. 16, July 1961)

A stop was in fact put on the order and Hobbs was terminated.

(Parsons Dep. Exhs. 17 and 19, August 1961)

Hobbs was later terminated as a Sargent dealer following an attempt by Hobbs to order hardware for a job in another dealer's territory.

(Yale Dep. Exh. 34, August 1965; Rhynedance Dep. Exhs. 3-A to 3-C, August 1965)

2. Refusal to Fill Orders.

Defendants "protected" masterkey jobs and their assigned dealers by refusing to accept orders from any other source. These orders were "stopped" and returned to maverick dealers by defendants, with the warning not to violate sales policy. As McCulloch advised Tri-State Builders Hardware:

> Certainly you, I am sure, don't want to ... raise chaos among the Russwin distributors in Ohio which have functioned very well for the past several years. In fact, to be blunt, Russwin cannot permit this.
>
> Trusting you will agree that we are right in this matter and that you will cooperate with our established policy in the future. If you feel you cannot agree to this course, then we would have to withdraw our line from your Columbus operation....
>
> (O'Neill Dep. Exh. 19, November 1965)

At the same time, defendants assured protected dealers who complained about competition that defendants would not sell hardware to anyone else, and thus reaffirmed the conspiracy. For instance, F. Meyer & Bro. complained to McCulloch:

> As the exclusive Russwin dealer in this territory ... we have kept our agreement with Russell and Erwin inviolate, but find for the second time within a relatively few months that Mr. George Schneider has underbid us on several jobs wherein Russwin masterkeying was involved - one being the St. Thomas Catholic Church, and the other an addition to the East Peoria High School.
>
> I feel we are entitled to some retribution as well as assurance of no further similar situations.
>
> (Maher Dep. Exh. 3, March 1961)

In response to the foregoing complaint, McCulloch wrote:

> I am in full accord with you that Mr. Schneider not be allowed to quote on RUSSWIN jobs in your area or against existing masterkeys that you may have established in your area. I am sure that Bill Maher, our salesman, is in full accord with our thinking as this type of policy <u>is our general policy throughout the country</u>....
>
> * * *

> I am asking Bill Maher in the copy of this letter to bring these complaints to Mr. Schneider's attention and if Mr. Schneider says he is not going to abide by our policy, then at the time he is notified, he will automatically lose the RUSSWIN line. (Emphasis added)
>
> (Maher Dep. Exh. 4, April 1961)

Maher advised McCulloch that he stopped orders from Schneider and would review all future orders.

(Maher Dep. Exh. 5, April 1961)

In another incident, a Sargent dealer, Fred Schilling & Son, complained about competition on the Suffolk County Community College, stressing that Eli Yale had previously assured "that Sargent and Company has the right to refuse sale of material to another Distributor in order to protect another Distributor (in this case Fred Schilling & Son, Inc.) who holds the original masterkey system." Schilling demanded a percentage of the profit if Sargent allowed it to lose the job. Eli Yale responded that "it has been made plain to Goldman [the maverick dealer] that we can and will protect masterkey conditions."

(Gray Dep. Exhs. 28 and 29, April 1964)

The keying records that defendants maintained at their factories enabled them to "stop" or "flag" orders for contract hardware to be used on masterkey jobs. Defendants, in concert with their dealers, were vigilant to prevent any sales of contract hardware that were not in accordance with the restrictive sales policies. Numerous examples of such incidents are listed at the end of this section.

The restraints upon competition for masterkey extensions had the obvious purpose and effect of keeping prices high, as may be seen from the following Sargent incident:

Upon complaint from Ken Lee Hardware Company in Chicago, Sargent refused to sell locksets and cylinders to any other dealer for a masterkey system extension in East Dubuque, Illinois (175 miles from Chicago).

(Rhynedance Dep. Exhs. 14-A and 14-B, May 1965)

The intra-corporate memoranda leave no doubt of Sargent's intent: "[A] competitor has broken the specification on the key system. We would like to stop them from pirating locksets from another account."

(Rhynedance Dep. Exh. 14-D, May 1965)

The Sargent sales representative (W.J. Healy) reported that the hardware contract had been awarded to other dealers because "Ken Lee's price was high."

(Rhynedance Dep. Exh. 14-B, May 1965)

The defendants enforced their restrictions on the sales of masterkey systems by providing in their price books that masterkey prices would be available only "on application."

(Talgo Dep. Exhs. 1 and 2, August 1965 (Yale 1965 price lists); Materne Dep. Exhs. 18-A and 18-B, May and June 1963; Wright Dep. Exhs. 20 to 26, Ilco's Architectural Hardware Price Lists, 1954-1970)

This term was understood in the industry to permit the defendants to refuse to fill orders for extensions by dealers who had not originated or been assigned the masterkey system in question. Thus, to protect its existing masterkeys from a newly appointed account, Yale's Dallas dealer suggested that general sales manager Young:

> [A]pply the policy of the corporation and that is "price on application for masterkey extensions."
>
> (Talgo Dep. Exh. 11, September 1962)

Defendants continued to refuse orders during the conspiratorial period despite their knowledge that it was illegal. In a 1961 letter to all salesmen, McCulloch reported the following discussion at a meeting among Russwin dealers:

> We discussed the legality of refusing to sell a Russwin dealer a masterkeyed job when he quoted on a system other than one he started and where the key system actually belongs to another Russwin distributor. We had Mr. T. M. Ford, our Legal Counsel, advise the group that legally we could not refuse to sell this distributor that quoted on the key system even though it wasn't his own if we hadn't advised him prior to bid time that he should not quote on it. We pointed out that this matter of protection was more of a gentlemen's agreement, and a moral agreement, and had been conducted that way for many years and that we hoped it could continue. However, I think this clarified the point of us refusing to supply an order to a Russwin dealer who quotes on a key system other than his own. We can't take the line away from him or refuse to quote him on this one job alone, but what we do after this job is finished, would be something else.
>
> (Deady Dep. Exh. 23, November 1961)

Two years later, Russwin's manager of contract sales, John Meagley, returned a dealer's order for hardware keyed to an existing masterkey system, explaining:

> Our General Sales Manager [McCulloch] has written a letter to our RUSSWIN representative pertaining to the policy that we should attempt to protect our distributors in maintaining a master key system which they established. Since our Augusta, Ga. distributor established a master key for this school district, we are unable to enter an order for the cylinders listed in this schedule, and the schedule is being returned to you with this letter.
>
> (Wiley Dep. Exh. 45, December 1963)

In those instances that defendants received complaints too late to stop an order from a maverick dealer, the offended dealer was told that steps would be taken to prevent any recurrence of competition. This discipline included termination.

(Yale Dep. Exh. 20, September 1965)

As Russwin's general sales manager, Tom O'Neill wrote to a local salesman:

> [I]f we had received a complaint from him on this job, prior to receipt of the order from Las Vegas, we could have refused the order at that time. But once it was acknowledged and entered for manufacture, and due to the action of the hardware man, in Las Vegas, we were pretty well put in a corner - and of course, you can pretty well read between the lines as to what my attitude and RUSSWIN'S in general is towards this particular individual from here on in.
>
> (O'Neill Dep. Exh. 22, June 1966)

In another case, McCulloch assured a complaining dealer that competition had resulted from a new dealer "not being fully familiar with how we operate on existing RUSSWIN masterkey state work" and that "Tom O'Neill has straightened everybody out on this score and you won't find any further cause for trouble." McCulloch reminded him that the conspiracy had worked effectively: "The last time we had a similar situation was about two or three years ago when Al Tawill first started buying."

(O'Neill Dep. Exh. 23, Jan. 1961)

Despite the investigation and complaints by the federal government, the conspiracy continued to operate; contract hardware dealers still adhered to the restraints on competition, and expected protection from defendants. In February 1969, the Yale dealer in Boston, Dave Eskin, advised A. E. Gray (then working for Yale) that it had lost a job on which it had written the specifications.

(Gray Dep. Exh. 42, February 1969)

Gray then wrote his superior William Hettling:

> I assume from Dave's attached letter that he wants us to turn down any order received from either a Challanger (sic) or Yale account for locks and/or cylinders factory ordered to the

> Yale system Eskin originally established for the Pingree School, South Hamilton, Mass.
>
> Can I write Dave that Key Record will be on the lookout for such an order, if it hasn't already gone through?
>
> (Gray Dep. Exh. 41, March 1969)

3. Requirement that maverick compensate protected dealer for lost business.

Defendants required maverick dealers who obtained unauthorized jobs to buy the necessary locks and cylinders for the masterkey system from the protected dealer,

(Pantas Dep. Exh. 12, May 1963)

often at exorbitant prices;

(Wiley Dep. Exh. 40, May 1961)

to share their profit with the protected dealer, or otherwise to compensate the protected dealer.

(Bauman Dep. Exh. 27, July 1964)

This effectively prevented violations of sales policy. Defendants monitored these arrangements by refusing to fill orders from anyone other than their protected dealers. For example:

(1) Deady, midwest sales manager for Russwin, reported to McCulloch:

> Ceco [an O.E.M. customer] have been excellent on protecting Hines [Russwin dealer] on masterkey work, after paying $12.50 per cyl. over two years ago.... We have a very definite understanding with Ceco. They will not bid master key work and if Hines should ever write a hardware specification that will be bid competitively Ceco would be willing to cooperate.
>
> (Deady Dep. Exh. 6, December 1963)

(2) When W. L. Reid successfully bid upon the masterkey system established by A. Laserowitz & Son at the Offutt Air Force Base in Omaha, Nebraska, Wheatley, Ilco's contract hardware product manager, refused to sell the hardware to Reid, forcing him to purchase from Laserowitz.

(Wheatley Dep. Exh. 10, June 1965; Wheatley Dep. Exhs. 7-9, February, May and June 1965)

(3) Architectural Specialties, a Seattle dealer for Russwin, secured an order from a Seattle architect for hardware to extend the masterkey system at a high school in Great Falls, Montana. In order "to maintain our attitude and support to our distributors on our masterkey systems, as I am sure he would expect us to do if the shoe were on the other foot," W. C. Lichtenfels required Architectural Specialties to give 50% of the profit to the local dealer, Montana Steel and Supply Co.

(Lichtenfels Dep. Exhs. 17-21, October 1964)

(4) When Tri-State Hardware of Philadelphia, which had established Campbell Soup's masterkey system, was an unsuccessful bidder on a Paris, Texas building, it demanded that Harry Talgo, Yale's assistant general sales manager, make certain the job was purchased through Tri-State as promised

> As you can see from telephone message and your letter, all Yale goods on this particular job were to be purchased through this office.... We are not requesting anything that was not originally promised to us.

(Talgo Dep. Exh. 17, February 1963; Talgo Tr. 196)

Accordingly, the low bidder, Webb Builders of Dallas, Texas, was forced to buy the locks through Tri-State. Yale's general sales manager later conceded to Webb that "Mr. Talgo [had] been trying to protect Mr. Tarantola" of Tri-State on the Paris job.

(Pantas Dep. Exh. 13, May 1963)

(5) J. E. McGee, Yale's supervisor of contract orders, wrote to Yale salesman Bill Wolfe in 1965:

> We have a letter from Mr. Jack Maupin in regard to the Texarkana College in Texarkana, Texas. The GMK System for this College was established by Pierce, Inc., Dallas, Texas, and now a recent addition, Building Service Company, Shreveport, La., was the low bidder.

> You are requested to advise Building Service Company that this is a Pierce, Inc. GMK System, and therefore if they are to purchase the locks and supply the locks for this job, they are to buy them through Pierce, Inc., in Dallas, Texas.
>
> (Talgo Dep. Exh. 16, Nov. 1965)

The manager of Yale's order department instructed the supervisor of key records regarding an addition to the Texarkana Housing Authority master key:

> There is a bid coming out for an addition on the subject job and this original Master Key was started by Pierce, Inc. Please refer to me any orders received on this job which are not originated by Pierce, Inc.
>
> (Talgo Dep. Exh. 15, May 1965)

Defendants themselves compensated protected dealers for "lost" jobs in order to keep them committed to the conspiracy. In one such incident, Henges Company complained to Carl Bauman, general sales manager of Corbin, about losing a job to another dealer who had invaded the territory assigned to Henges.

(Kazmer Dep. Exhs. 17 and 18, May 1963)

Bauman responded by warning of "F.T.C. rulings and investigations in recent months," assured Henges that Corbin would try to protect Henges, and gave Henges a $4,000 credit (by a special 10% discount on goods purchased) to make up for lost profit on the job. This satisfied Henges.

(Kazmer Dep. Exhs. 19-21, May-July 1963)

In a similar case, Sargent agreed to give Merner Hardware a 5% "commission" on a "job that Transwestern Supply took away from Merner after they had agreed to give a complimentary bid."

(Salaman Dep. Exhs. 14 and 15, May 1964)

D. Refusals of defendants to sell contract hardware to their dealers to enforce the restraints against competing on masterkey work.

1. January 1968: Gray, Sargent's eastern sales manager, advised Architects Hardware and Specialty Co. that "Sargent and Company will not sell Henry Meurs & Sons under any circumstances" for an addition to the Samaritan Hospital in the territory assigned to Architects Hardware:

> Please note that I am sending a copy of this letter to Bert Schmidt to alert his other area distributors in the event they are asked to quote.

(Yale Dep. Exh. 33)

2. March 1967: Wheatley assured the local Pennsylvania dealer that Ilco has taken "the necessary steps" to prevent competition from New York dealers on the Coatesville Veterans Hospital.

(Wheatley Dep. Exhs. 14 and 15)

3. November 1966: Wheatley stopped orders to protect Craftsmen, Ilco's New Hampshire dealer, on an addition to an elementary school in Bedford, New Hampshire.

(Wheatley Dep. Exhs. 11 and 11-A)

4. February 1964: Ilco refused to sell hardware to Craftsmen for jobs outside his assigned territory, even though no other Ilco dealer had bid on the jobs.

(Materne Dep. Exh. 12)

5. January 1966: Wheatley put a stop on orders for Alfred E. Smith State Office Building received from any Ilco dealer besides Semel Goldman Co.

(Wheatley Dep. Exh. 13)

6. December 1965: Upon complaint from Morley Brothers, a Sargent dealer in Saginaw, Michigan, that it had lost a masterkey job to a Yale dealer, Rhynedance, Sargent's midwestern sales manager, wrote:

> I cannot answer your question as to how a Yale distributor could get masterkey locks keyed to an existing Sargent masterkey system. In the past we have stopped this kind of thing and we will make every effort to stop it this time.

(Rhynedance Dep. Exh. 19)

7. July 1964: Morley Brothers secured an order for a public housing project in the City of Detroit. The local Sargent salesman R. W. Thompson, noted that "this should have been a Freeman existing key order."

(Thompson Dep. Exh. 19)

Thereupon, Sargent stopped the order from Morley and returned it to Thompson.

(Thompson Dep. Exh. 20 and 21)

8. November 1965: Healy, Sargent's midwest sales representative, told Dave Oaks, a local Chicago dealer, not to accept orders for hardware from Nicholson Hardware of Rockford, Illinois, who had bid on an existing masterkey system at the Wilson Junior High School.

(Oaks Dep. Exh. 8)

9. October 1965: An internal Yale memorandum stated:

> We have received an order dated October 4th from Hellring Brothers Inc. ... calling for 12 sets of LF5307 locksets, GMKeyed to the existing GMKey system for American Cyanamid Company in Princeton, New Jersey.
>
> We have a flag in the key record folder indicating that no orders are to be added to this system except through the New Jersey Hardware Company. (Emphasis added)

(Talgo Dep. Exh. 58)

10. July 1965: The manager of Yale's order department responded to a letter from BDR Engineering Corp., Yale's Kansas City contract account:

> Bill Snyder [a Yale employee] has sent us your letter of June 25 concerning the High School at LaMonte, Missouri. In checking our records, we find no master key system listed under the name as given in your letter but we do find a master key system listed as Re-organized School District, LaMonte, Missouri, master key No. N261454G.
>
> Please advise us if this is the master key system you are referring to and we will then put a stop order in the folder to prevent the furnishing of cylinders to this system.

(Talgo Dep. Exh. 14)

11. June 1965: Eli Yale informed the Sargent order department that the George Worthington Co. of Lansing, Michigan, had shipped contract hardware to its residential account in Cleveland and used the hardware to bid on additions to existing Sargent masterkey systems. Yale asked:

> Will you please take whatever steps necessary to prevent any further sale of contract material to this account.

(Yale Dep. Exh. 35)

A subsequent memorandum shows that Sargent stopped the further sale of contract items to the George Worthington Company.

(Yale Dep. Exh. 36)

12. October 1964: Dumas Hardware Company, Sargent's account in San Antonio, Texas, complained to Eli Yale that:

> One of our competitors recently bid and was low on a [masterkey] job involving two elementary schools for the Harlandale Independent School District.

Dumas asked Sargent to prevent the bootlegging of the necessary locks and cylinders.

(Yale Dep. Exh. 12)

Eli Yale immediately advised Sid McMaster, head of the keying department:

> Please put a stop on any order for an addition to the above school district Grandmaster key [illegible]M31836 if ordered through other than Dumas Hardware Company.

(Yale Dep. Exh. 13)

Eli Yale then advised Dumas that he had:

> Put a stop on any additions to the Harlandale Independent School District with our Keying Department.

(Yale Dep. Exh. 14)

13. October 1964: A Sargent salesman complained to Eli Yale that a Fenestra account in Atlanta, Georgia, had secured the order for an addition to a masterkey system at the Telfair County High School, originally installed by the Neal-Blun Company in Savannah, Georgia. The salesman wrote:

> It would seem that this firm has no intention of cooperating with the established Sargent accounts in this area and should be cut off or at least prohibited from buying master keyed locks.

(Yale Dep. Exh. 15)

Eli Yale immediately advised Mr. McMaster of the keying department to stop any order for the masterkey system at Telfair County High School unless it came through the Neal-Blun Company.

(Yale Dep. Exh. 16)

14. August 1964: Eli Yale put a stop on any order for an addition to a masterkey system in Cedar Rapids, Iowa "other than through Ken-Lee Hardware Company," which was located in Chicago.

(Yale Dep. Exh. 37)

Thereafter, Yale advised Healy, Sargent's midwest sales representative that:

> [A] stop has been put with the Keying Dept. for any orders for the [Cedar Rapids job] entered through other than Ken-Lee Hardware Company.

(Yale Dep. Exh. 38)

15. March 1964: Wheatley put a stop on all orders for Butts Army Air Field in Colorado to prevent any Ilco dealer from bootlegging the hardware.

(Wheatley Dep. Exh. 12)

16. March 1964: Upon a complaint from Broadway Supply Co. that another dealer had "pirated" a job, Wheatley assured the complainant that Ilco would not fill any order "received from those people or from some other distributor for this job."

(Wheatley Dep. Exhs. 26 and 27)

17. December 1963: By memorandum to Gene Deady, midwestern sales manager, McCulloch relayed a complaint from a local Russwin dealer that a Ceco dealer, Twin-City Glass Company of Monroe, Louisiana, had bid on an existing Russwin masterkey. McCulloch asked:

> Will you please take this up with the powers that be at Ceco and see if they can get Twin City to withdraw their bids. We've had trouble in the past, in one or two instances with this Ceco account in Monroe. I thought we had the ghost of Ceco bidding on existing Russwin master keys pretty well laid to rest.
>
> (Deady Dep. Exh. 7)

Thereafter McCulloch advised Glenn Wiley, Russwin's southern sales manager, as follows:

> Ceco has advised Twin City Glass that they will not furnish RUSSWIN masterkeyed locks for this job, and has instructed Twin City Glass to contact our distributor for a quote on the hardware needed.
>
> (Deady Dep. Exh. 8)

18. September 1963: In response to a complaint from O'Malley Builders Hardware about the Municipal Baseball Stadium, Eli Yale advised by letter:

> ... I have had a stop put on any orders being entered keyed to the City of Phoenix masterkey unless through O'Malley Builders Hardware. We certainly will do everything possible to protect your masterkey and will refuse to sell cylinders to anyone except O'Malley.
>
> (Salaman Dep. Exh. 18)

Copies of the letter were sent to the local Sargent sales personnel and the keying department. Shortly thereafter, a dealer in Kansas City, Missouri, placed an order for the hardware to be used on the Baseball Stadium in Phoenix, Arizona. Eli Yale returned the order and informed the Kansas City dealer to place the order with O'Malley Builders Hardware in Phoenix.

(Salaman Dep. Exh. 19, October 1963)

19. November 1962: Eli Yale, general sales manager, directed Sargent sales personnel to stop an order for the Hopewell School District in Pittsburgh, Pennsylvania, to protect A. G. Mauro Company who initiated the masterkey system. The local salesman had reported that the dealer who submitted the low bid would try to purchase the "locks outside of the Pittsburgh area."

(Yale Dep. Exhs. 6 and 7)

20. July 1962: Carl Bauman, general sales manager, advised Corbin sales personnel that Booher:

> ... the Lockwood account in Wichita, Kansas, has bid into a CORBIN master and grand master key at the University of Kansas Medical Center.
>
> (Bauman Dep. Exh. 90)

Bauman instructed them to

> be on the lookout for any order approximating this quantity in this keyway, so that we may put a "stopper" on this job.
>
> (Bauman Dep. Exh. 90)

21. August 1961: Dave Oaks, Russwin sales manager, instructed J. P. Meagley, manager of contract sales, to cancel an order from Witt Hardware to prevent "breaking a master key established by Hardware Distributors."

(Oaks Dep. Exhs. 1 and 2)

22. August 1961: Maher, then a Russwin salesman, instructed Meagley to "put a hold" on any orders for the Robein School addition "as this would be a violation of a master key held by F. Meyer."

(Maher Dep. Exh. 10)

23. June 1961: Gene Deady, a Russwin salesman, reported to the factory that:

> It seems that our dealer has an order to furnish some locks masterkeyed to Ceco's existing system.
>
> Ceco advised our dealer to purchase the locks from them just as Ceco has to do when they are up against the dealers MK....
>
> Please watch for an order from our St. Louis dealer for the above captioned job -- don't let it get through.
>
> (Deady Dep. Exh. 4)

E. Defendants enforced the industry-wide agreement against competing on masterkey jobs through the American Society of Architectural Hardware Consultants.

The architectural hardware industry's trade associations were used by defendants and their dealers as an effective means to promulgate and enforce their restrictions on the sale of contract hardware.

From its inception the American Society of Architectural Hardware Consultants ("ASAHC") prohibited breaking competitors' masterkey systems. As former ASAHC President, Dan Hay, put it to the 600 delegates at the 1957 hardware convention:

> [B]ack in 1941, maybe just a little later when we got our feet on the ground, one of the very first things that was brought up and agreed to, was that we would respect masterkeys.
>
> (N-1502-1503, September 1957; AS-811, October 1957)

In the late 1950's, when some dealers began "disregarding" this agreement, defendants sought to have the National Builders Hardware Association ("NBHA") adopt a "code of ethics" that manufacturers would not "intrude upon other members' masterkey systems."*/ The NBHA's general counsel advised defendants, however, that such agreement among manufacturers would be illegal.

(Booth Dep. Exh. 10, November 1956)

Thereupon, defendants sought to "circumvent" this legal obstacle "by placing the matter of masterkeying ethics in the lap of the [American] Society [of Architectural Hardware Consultants]. Then

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*/ L. Curtis Booth, Corbin's vice-president, reported that "all of the manufacturers are honestly attempting to bring moral persuasion on their dealers to give up this practice."

(Booth Dep. Exh. 6, April 1958)

it would become a part of ethics among individual Society members."

(Booth Dep. Exh. 9, April 1958)

Shortly thereafter, in 1958, the ASAHC adopted a so-called "Code of Ethics" against "Breaking a Masterkeying System,"

(Bauman Dep. Exhs. 70-D and 70-E, May 1958)

which set forth the existing "ethical" agreements in a "forthright and forceful manner."

(Bauman Dep. Exhs. 41-A and 41-B, December 1958)

The ASAHC defined breaking a masterkey system as:

> [T]he act of specifying or furnishing a lock system other than that in existence, when the owner and architect desire to continue the existing system, or the furnishing of locks and cylinders keyed by other than the original manufacturer at his plant, where permanent keying records are maintained for the owner's protection.
>
> (Booth Dep. Exh. 3, December 1962)

Provisions of the masterkey code of ethics repeatedly were published in the trade association journal that was distributed to all members.

(E-6701, May 1958; Bauman Dep. Exh. 43-B, July 1962; AS-131-132, 813, 816-817, 856)

By speeches at trade association conventions and articles in trade journals defendants reiterated the need for industry-wide adherence to ASAHC's prohibition against breaking masterkey systems.

In 1964, defendants reiterated their commitment to the restriction against breaking masterkey systems through the ASAHC's Manual of Standardization for Terms and Nomenclature of Masterkeying, which was prepared by top sales executives from each of the defendants:

> Any extensions or additions to the [masterkey] system should be supplied by the lock manufacturer originating the system.
>
> (Quedenfeld Dep. Exh. 33, undated; Lichtenfels Tr. 15-16; Wheatley Tr. 28-29)

The measures that defendants took to enforce these "ethical" restrictions leaves no doubt this language was meant and applied to prevent any distributor from bidding upon an existing masterkey system -- the purpose being to eliminate price competition. In this regard, McCulloch stated to a joint meeting of the ASAHC and Builders Hardware Manufacturers Association ("BHMA") on April 30, 1965:

> The system is "broken" when a low bid from a competitor forces the owner through economic pressure to establish a new system.
>
> (AS-1189, April 1965)

1. Defendants required their dealers to adhere to the ASAHC's proscription against breaking masterkey systems.

Defendants implemented their conspiracy by enforcing the ASAHC's "code of ethics" which forbade competing on existing masterkey systems. In this connection, McCulloch wrote to a Russwin dealer on March 21, 1963:

> I know Ben, that you subscribed faithfully to the maintaining of a legitimate master key system. This not only makes good business sense, but it is one of the main points of ethics of our industry and the A.S.A.H.C. For if the continuation of master key systems isn't respected by all, this would break down the economics and frankly, the making of reasonable profits for our industry. I'm sure you will agree.
>
> I hope that you won't be tempted no matter how much your competitor gores you into doing anything to upset the principle and the establishment of continuing existing master key systems for this can be a two edged sword, I'm sure you will agree. I would suggest because this matter seems to be uppermost in your minds and apparently in your competitors, that you bite your tongue (if I may use such a phrase) if contractors or owners approach you on your feelings in this matter. (Emphasis added)
>
> (E-8515, March 1963)

The record contains numerous other incidents where defendants invoked the "code of ethics" to prevent competition by dealers.

(1) By letter of February 12, 1962, McCulloch told a salesman to investigate a report that a Russwin dealer had tried to break a masterkey system, stressing:

> This is simply ethics, and I'd feel the same whether this was a Sargent or Lockwood dealer if we did this deliberately on an existing key system.
>
> (E-8600)

(2) Sargent sales manager Eli Yale advised Thompson, southern sales manager, that:

> The above order has been put through at regular prices including the charge for the replacement cylinders. It is completely against our policy to break competitive master keys by replacing cylinders on a no-charge basis. If the distributor does this it is one thing, but it is completely unethical for Sargent & Company to be a party to this. It is also against the ethics of the Society to do this. Will you please explain this to the customer.
>
> (Thompson Dep. Exh. 23, June 1966)

(3) In a sales bulletin of June 17, 1963, McCulloch chastised his salesmen for not keeping dealers from breaking masterkey systems:

> However, I feel that the illegitimate and willful "breaking" of any manufacturer's established master key system is not right, ethically, morally and is just poor business thinking, for remember the same sword can be turned on the originator of such a practice some day.
>
> * * *
>
> I feel very strongly regarding this matter, both as head of our division's sales and an officer of the A.S.A.H.C. I don't intend to compromise my position with our company or industry.
>
> (Lichtenfels Dep. Exh. 35-B, June 1963)

A copy of the foregoing sales note was sent to the ASAHC.

> (Lichtenfels Dep. Exh. 35-A, undated)

These enforcement efforts were effective because ASAHC membership included personnel of both manufacturers and dealers. As a matter of policy, defendants urged, and even pressured,

their sales personnel and distributors to join the ASAHC.

(Booth Dep. Exh. 1, January 1958;
Parsons Dep. Exhs. 1 and 2,
April and December 1960;
Reilly Tr. 25;
Quedenfeld Tr. 35-36;
S-1291)

Dealers understood these restrictions and participated in their enforcement. As Gray reported to Eli Yale regarding the Cleveland market:

> A vigorous campaign on the part of our account to perpetuate Sargent & Company masterkeys, some of which have been broken by our former account, and some of which have been continued by having the cylinders taken out of the hardware contract and purchased by the owners through devious means. Our account plans to initiate such action as is necessary through the Society of the American Hardware Consultants and bring individual charges against that individual of the Society who is responsible for what is considered to be a flagrant violation of the Society's Code of Ethics. Such charges it is hoped will eliminate the practice of breaking our masterkeys....
>
> (Gray Dep. Exh. 27, December 1964)

Another dealer complained to McCulloch about instances of "unfair" competition and bootlegging by dealers of other manufacturers, and stated:

> Today, we want to go on record with you, both as a representative of Russell & Erwin Division and as an officer of the ASAHC, that we shall not competitively quote on other than Russwin master key additions until such a time that one of our competitors quotes a continuation of an existing bona-fide Russwin master keyed job that is within our territory and which should rightfully be furnished by us as a legitimate Russwin Distributor. At such a time that this unethical practice takes place, it shall be "Katie, bar the door" as far as we are concerned with existing master keyed jobs of either Schlage or Sargent, or anyone of the others if they are the one that violates the standard practice of the industry with respect to master keyed additions.
>
> We fully realize that Schlage has no protective policy toward their distributors or dealers, but certainly Sargent does. To date, we have had no trouble in this matter with Corbin, Yale and Lockwood (except for Brownell on State and Federal jobs), which, in a way, is understandable.
>
> (Wiley Dep. Exh. 42, June 1961)

McCulloch assured Taylor & Cotton that the breaking of master-key systems by the Sargent "competitor ... was taken up with certain parties and I am sure you will find the situation is now straightened out."

(Wiley Dep. Exh. 41, August 1961)

The dealers frequently complained themselves to the ASAHC about competition from other dealers on masterkey jobs. One such incident is recorded in the files of the George Worthington Company, Cleveland, Ohio. By letters directly to Worthington and the ASAHC, Cleveland Vicon Company, a competing dealer, demanded that Worthington stop offering to sell Russwin hardware for additions to existing Sargent masterkey systems. On behalf of the ASAHC, McCulloch warned Worthington that it was a "violation" of the trade association's by-laws to supply "Master Keyed locks to existing Master Key Systems that are under a Master Key other than that of the manufacturer your firm represents."

(Documents coded GW60, 54, 61, 64-67, February 1965 through October 1967)

2. Prosecutions for violations of the "Code of Ethics."

The "Code of Ethics" was vigorously enforced. The ASAHC's by-laws required all members to adhere to the "Code of Ethics"

(Bauman Dep. Exh. 36-B, 1951)

and established a procedure for prosecution of complaints that a distributor had tried to break a masterkey system or offered to sell contract hardware of a manufacturer other than his own. An ethical practices committee, comprised of representatives from different companies, would conduct an investigation. If found guilty, distributors were suspended or expelled from the ASAHC.

(a) The expulsion of W.L. Reid for attempting to "break" a masterkey system.

W. L. Reid was expelled in 1960 for offering to supply Yale locks on Oregon State College Dormitory which was specified as a continuation of a Schlage masterkey system. When Reid began legal action to obtain an opportunity to compete on the dormitory, Corbin's Oregon dealer, Bill Schmiedling, wrote:

> Mr. Reid is certainly breaking all the ethics of both the Association and the Society when he resorts to such methods to try to break existing masterkeys.
>
> (M-373-374, June 1959)

Consequently, the following defendants voted unanimously to expel Reid at the ASAHC's Board of Directors meeting in September, 1960: Edward H. McCulloch and Thomas D. O'Neill (Russwin); L. Curtis Booth (Corbin); J. C. Elmblad (Sargent); and Les G. Groves (Yale).

(Bauman Dep. Exhs. 45-A, B, C and D. September 1960)

(b) Ken Booher was expelled for bidding on another manufacturer's masterkey system.

Since masterkey ethics prohibited dealers from bidding another manufacturer's product, Ken Booher, a Lockwood dealer in Wichita, Kansas, was expelled in 1961 for offering to supply Sargent products as specified on the Student Housing Building at the University of Denver, a Sargent masterkey addition.*/

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*/ Only a dealer with "normal access to Sargent goods" -- i.e., a franchised Sargent dealer -- could "ethically" bid on a job calling for Sargent hardware.

Denouncing Booher's bid as an "infraction of the code of ethics" and a "wilful breaking of a competitor's masterkey system,"

(Bauman Dep. Exhs. 61-A and B, May 1961)

Roy G. Salaman, Sargent's western sales manager, spearheaded the expulsion demand.

(Salaman Dep. Exhs. 21, 24, 25 and 26, June and July 1961)

Salaman stressed the need for "immediate action" to preserve the "effectiveness ... [of] the code of ethics."

(Bauman Dep. Exh. 61-A, May 1961)

Sargent's franchised distributor in Denver, who bid $10,000 more than Booher and lost the job, advised that the distributors "in this and other areas" were "deeply concerned" about the matter and the prevention of "raids" on masterkey jobs.

(Bauman Dep. Exh. 61-D, June 1961)

An investigation report to Merrill, ASAHC's executive director, and Veihmeyer, its president, concluded that Booher had violated the "code of ethics,"

> even though he did quote the Denver job in complete accordance with the plans and specifications, because ... he would have to secure the Sargent items through a source other than his normal suppliers.

(Bauman Dep. Exh. 61-L, August 1961)

The following defendants were represented at the ASAHC's Board of Directors meeting on October 14, 1961, which voted to expel Booher: McCulloch (Russwin); Booth and Bauman (Corbin); Elmblad (Sargent); and Dickenson (Yale).

(Bauman Dep. Exh. 60-B, October 1961)

Even after expelling Booher, the defendants continued to harass him through the ASAHC on the "matter of ethics." In

mid-1962, Corbin's general sales manager, Carl Bauman, alerted Merrill to Booher's bid on a Corbin masterkey system at the University of Kansas Medical Center and argued "that strong measures be taken by all Society members in the State of Kansas." Merrill assured that this incident could be used to reject Booher "should he ever apply for reinstatement," and exhorted Corbin to "pick up the cudgel" and pursue Booher "to the bitter end."

> It will only be because of such action that such a fellow like Booher can be stopped.
>
> (Bauman Dep. Exh. 91, July 1962)

Bauman "stopped" Booher by refusing to fill any order for the University of Kansas Medical Center.

(Bauman Dep. Exh. 90, July 1962)

A similar complaint from a Russwin dealer in 1963 regarding Booher's bid on the Russwin masterkey at Southwest Missouri State College was tapped to block Booher's reinstatement. Merrill, with a carbon to Russwin's vice-president, assured the complainant:

> You can rest assured that our Society has a strong code of ethics, with a special statement of record issued by the Board of Directors on the ethics of master keying. You have encountered the exception rather than the rule....
>
> (AS-1407, October 1963)

(c) The termination and suspension of Louis Carr for breaking masterkey systems.

Yale disciplined Louis Carr for his "ethical" lapses by terminating him as a contract hardware distributor and then assisting to suspend him from the ASAHC.

In the late 1950's and early 1960's, Louis Carr of Anderson & Ireland, Yale's Baltimore account, upset the Baltimore market by submitting competitively priced bids on masterkey

extensions, in which he offered to supply brands other than those specified.

(Talgo Tr. 482, 484-485)

In a letter to the ASAHC's executive director Merrill, Howard MacCarthy, Sargent's Baltimore account, described Carr's infraction of the ASAHC's ethical restraints:

> This young gentleman has it in mind, I believe to completely change the entire distributing system of builders hardware in this country. He does not believe in exclusive franchises, he does not believe in cooperation with competitors, whether they be fellow members of NBMA or AHC, he does not believe in respecting master key systems....
>
> His bids are invariably very low, and therefore are establishing the "market price" for hardware in this area.

(Bauman Dep. Exh. 62-F, August 1961)

Complaints of Carr's substitute bids were relayed by Yale's salesman Hal Fallows and regional sales manager Ken Lanyon, to their superior Harry Talgo.

(Talgo Tr. 482)

Yale took contract account status away from Anderson & Ireland in 1961.

Expulsion proceedings then commenced with a formal complaint, by MacCarthy Company, joined by Hal Fallows and Sargent's Baltimore salesman James Stephens.

(Talgo Dep. Exhs. 62 and 63, April and July 1962)

The attack focused on the Patapsco Neck School job, a Yale masterkey addition, which "ethically" belonged to Commercial Hardware, but which Anderson & Ireland successfully bid and keyed locally.

(Talgo Dep. Exh. 66, August 1962; Bauman Dep. Exh. 62-L and DD, October and August 1962)

The ASAHC required and received "a statement from Yale & Towne that they did not furnish lock keys [for Patapsco] .. to Anderson & Ireland or to anyone else."

(Bauman Dep. Exh. 62-Z, July 1962)

With Yale's statement, the ASAHC's Board of Directors, on the motion of Russwin's McCulloch and the second of Yale's Tom Dickenson, suspended Carr.

(Bauman Dep. Exh. 62-L, October 1962)

Sargent salesman Dave Winn and Yale employee Les Groves were also present.

(Bauman Dep. Exh. 62-H, October 1962)

It is significant to note that the ASAHC's files also contain Anderson & Ireland's letter of termination from Leo Pantas, vice-president of Yale,

(Bauman Dep. Exh. 62-BB, June 1961)

and an internal Yale memorandum circulated among the top sales executives advising that Anderson & Ireland "will not be allowed to bid [illegible] any contract jobs as we will not honor their orders for any type of Contract Hardware...." */

(Bauman Dep. Exh. 62-CC, March 1962)

(d) Dealers who violated ASAHC's restrictions on competition were threatened with disciplinary action.

Enforcement of defendants' conspiratorial agreements often were effected by measures short of expulsion or suspension from the ASAHC. One such incident arose from a complaint by Wagstaff Hardware Company to Russwin that J. A. Konopka of Builders Manufacturing Co. in Birmingham submitted the low bid

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*/ None of these documents was found in Eaton's files.

in March 1964 for an extension of a Russwin masterkey at a Housing Project in Sheffield, Alabama.

(Bauman Dep. Exh. 66, April 1964; AS-590-594 and 596, March 1964)

Wagstaff complained directly to Glenn Wiley, Russwin's southern sales manager, and attached a copy of the bid submitted by Builders Manufacturing Co. By corporate memorandum, Wiley advised McCulloch that Wagstaff had not yet made a formal complaint to the ASAHC and asked "if there is any procedure of warning Konopka that this instance will be held over his head if it should re-occur."

(AS-595 and 596, April 1964)

This internal Russwin memorandum, as well as the letter of complaint that Wiley received from Wagstaff, were forwarded directly to the ASAHC for disciplinary action.*/ Thereafter Merrill, executive director of the ASAHC, warned Konopka, with a carbon copy to McCulloch:

> This is to inform you that you are operating in direct conflict with the Code of Ethics of the American Society of Architectural Hardware Consultants and the statement of record by the Board of Directors dated December 13, 1962....
>
> As yet no formal complaint has been filed against you, but this is to bring the matter to your attention, and we sincerely hope that you will be guided accordingly.
>
> (Bauman Dep. Exh. 67, May 1964; AS-589, May 1964)

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*/ Both documents were found in the ASAHC's files.

3. Enforcement through local chapters.

Defendants utilized the ASAHC's local chapters to disseminate and enforce their restraints through the initiation and investigation of complaints.

(Wheatley Tr. 42)

Local chapters provided:

> A meeting place for discussion on questions of local application of the Society's code of ethics, means of assuring local adherence and how to deal with breaches thereof.
>
> (Bauman Dep. Exh. 35-F, Sep. 1958)

The following incidents illustrate chapter involvement in "weeding out ... undesirable and unethical characters,"

(E-11661, February 1960)

"maintaining specifications, and honoring of masterkey systems."

(Bauman Dep. Exh. 35-D, Sep. 1958)

(1) At the February 7, 1963 New England chapter meeting attended by Ilco's contract hardware product manager George Wheatley, Corbin's general sales manager Geddes Parsons read a letter from a Corbin salesman,

(Parsons Dep. Exh. 4, February 1963; Parsons Tr. 42)

which stated:

> One of the functions of our chapter is to settle the grievances of our industry....
>
> In recent months, there has been a surge of tactics, which borders on "stretching of ethics to suit the circumstances." We all realize that almost every master key system can be broken, in one way or another. Our Code of Ethics, in this respect, is not elastic to suit one's immediate whim. We must all honor - above everything else in our industry - an established master key system.
>
> (Wheatley Dep. Exh. 2, December 1962)

This letter was circulated to all chapter members.

(AS 1041-1043, February 1963)

(2) At the April 12, 1962 Connecticut chapter meeting attended by Corbin's sales manager Parsons and Ilco's George Wheatley, there was discussion of a report submitted

to the membership by the Ethical Practices Committee and the new hardware sales policy of Fenestra, a large Sargent account which manufactured doors.

(Parsons Dep. Exh. 3, April 1962)

(3) On February 20, 1962 the ASAHC's Gulf Coast chapter censured Lloyd Schmidt of Sargent's Miami account for bidding (i) an addition to the Schlage masterkey at the Fort Walton Hospital, and (ii) an addition to the Corbin masterkey at Crestview Hospital. Schmidt's fault lay in bidding "jobs on which he hasn't access to legitimately" and failing to honor a competitor's specification.

(Bauman Dep. Exhs. 68-A and B, February 1962)

(4) When Melcher-Schene, a St. Louis dealer, secured the order for an addition to the Corbin masterkey at St. Bartholomew School in 1962,

(Bauman Dep. Exh. 14-A, March 1962)

Henges Company, the local Corbin dealer complained to Corbin's sales manager Bauman and asked "that the necessary steps ... be taken against efforts of Mr. Martin to obtain hardware from other sources."

(Bauman Dep. Exh. 14-A, March 1962)

In response, Bauman urged Henges to bring this "violation of the code of ethics" before the local chapter's grievance committee. In the meantime, he "assured" Henges that:

> [W]e are not going to allow Melcher-Schene to order and be able to buy cylinders.... I will see that everybody is alerted on it and we will certainly turn anybody down.

(Bauman Dep. Exh. 14-C, March 1962)

(5) A special meeting of the Great Lakes chapter was convened in November 1961 under the chairmanship of Sargent salesman William Healy to consider evidence regarding a charge that a manufacturer's sales representative had helped break a Russwin masterkey system at the Filtration Plant in Chicago. Among the 18 members present were Russwin's sales manager Whyte, Yale salesman Puhek and the local dealers for Russwin, Sargent, Ilco, and Corbin.

(Healy Tr. 90-92)

The meeting minutes include the discussion that it was

> [A] violation of the ethics of the ASAHC to "break" an existing masterkey system.

(Healy Dep. Exh. 4, November 1961)

IV. DAMAGES CAUSED BY THE ELIMINATION OF COMPETITION

A. Defendants' conspiracy was intended and operated to inflate prices of contract hardware purchased by public agencies and other owners of buildings.

The agreement among defendants to keep distributors from bidding on other manufacturers' masterkey jobs (or bootlegging contract hardware) was designed to maintain prices in excess of competitive levels. It enabled both manufacturers and distributors to "gouge" the plaintiffs, against whom the industry-wide policy was directed. Dave Oaks, a salesman for Russwin and Sargent, explained the reason for the illegal agreements not to break masterkey systems:

> A Well, on a master key job, number 1, the manufacturer would not have to give a price concession, and number 2, it gave the distributor an opportunity to basically put any markup on the job he wanted. It was a non-competitive job.
>
> (Tr. 36-37)

> A ... on a master key system the manufacturer would not have to cut the price, and looking at it from the distributor's point of view, the distributor could gouge the job; he could put as much markup on it as he wanted.
>
> (Tr. 39-40)

> A The master key system was the plum of the industry.
>
> (Tr. 50)

The defendants' sales restrictions and the ASAHC's "code of ethics" manifested the industry-wide understanding that price competition "can become most unpleasant for all of us and no one will make any money." (Emphasis added)

(Bauman Dep. Exh. 19, April 1963)

Russwin insisted that its distributors not interfere with an existing masterkey job:

> This not only makes good business sense but it is one of the main points of ethics of our industry

> and the A.S.A.H.C. For if the continuation of master key systems isn't respected by all, this would break down the economics and frankly, the making of reasonable profits for our industry.... (Emphasis added)
>
> (Maher Dep. Exh. 6, March 1963)

The economic basis for this restriction was readily apparent. As McCulloch explained to one dealer:

> I don't [think] it necessary to ever give a contractor a bid for comparison purposes only. In other words, you try to keep the other fellow honest for he will only retaliate in a like manner in the future. Naturally, contractors are always trying to buy as cheaply as they can, particularly after the bids are in. They like to put the money, that they save by bid peddling, in their pocket or knocking the low bid down that they receive to get the job. In a case of where we have a key system and other products are involved, I think we should let sleeping dogs lie. Simply tell the contractor that you are too busy to give him a figure or that you can't bid on the material as specified and let it go at that. When you put a figure in, if the other fellow has, let's put it frankly "loaded it", then you are going to make him look pretty foolish and this of course is where the ill feeling creeps in.
>
> (O'Neill Dep. Exh. 12, June 1963)

In this connection, McCulloch wrote another dealer in 1956:

> The other thing, which we have already been into, is the masterkey situation. I don't believe we need to rehash that except to state that where an existing masterkey has been started by another dealer, we feel that other dealers should respect that so that the dealer starting that original system can make some money on the addition as that is one of the few places in this business of ours that our dealer can recap and make a little profit and there is nothing wrong with that, I am sure you will agree.
>
> (Lichtenfels Dep. Exh. 38-A, May 1956)

This "industry policy" was supplemented by more specific illegal joint action. For example, McCulloch instructed a distributor in Dallas, Texas, to reach "an understanding such as they have in Los Angeles" with dealers of other manufacturers in order to maintain "net prices."

> (McCulloch Dep. Exh. 12, December 1962)

Defendants had dealers police each other because, in McCulloch's words, "if we embark on a deliberate policy of breaking Master Key Systems ... the ones that will lose, will be the distributors; actually everyone will because their profits will be greatly lowered."

(E-10,989 February 1963)

B. Defendants required their dealers to submit collusive bids to keep contract hardware prices at inflated levels.

Defendants maintained non-competitive prices despite the statutory requirements for competitive bids on public works by arranging to have their distributors submit so-called "complimentary" bids, or collusive bids at prices higher than the protected distributor. (On masterkey work, the protected distributor was already secure from any interference by dealers of other defendants). These bids were arranged as "the means of having the owner and the architect believe they were getting competitive bids from two sources."

(McCulloch Dep. Exh. 38, March 1962)

Arrangements for the submission of collusive bids was an industry-wide practice among all defendants. As Dave Oaks, salesman for Emhart and Sargent, admitted:

> Q Did you on any occasion discuss the giving of complimentary bids with salesmen from other manufacturers?
>
> A Yes. We were all doing it.
>
> (Oaks Tr. 81)

Several incidents recorded in the documents obtained from defendants illustrate this illegal practice.

1. The University of Connecticut (1968).

In March 1968, Sargent got four New York distributors to "cooperate" on the job at the University of Connecticut, which had been reserved for the local distributor, Jack O'Keefe. The Sargent sales representative reported that the four distributors had been contacted and "all will bid over $3,500."

(Thompson Dep. Exh. 25, March 1968)

Sargent's eastern sales manager, Thompson, commended the sales representative.*/

(Thompson Dep. Exh. 28, March 1968)

2. The United States Courthouse in Chicago (1965).

By memorandum dated November 11, 1965, William Healy, Sargent's midwest sales representative, reported to Eli Yale, vice-president of sales, that:

> When the federal bldg [in Chicago] started to put out bids about a year ago I arranged to have Ken Lee's quotations complimented by Dave Oaks & Great Lakes.... After all Ken Lee has put a great deal of time and money into the federal bldg. job and the continuing business should be available to them -- at a profit.
>
> (Rhynedance Dep. Exh. 12)

With reference to this incident, Dave Oaks testified as follows:

> A A complimentary bid is a bid that a distributor would submit which would be higher than the distributor whom the order was meant to go to. It is a rigged bid.
>
> Q As a Sargent distributor were you ever requested to submit a complimentary bid?
>
> A Yes.... By Bill Healy of Sargent.

---

*/ It was necessary to secure the "cooperation" of the New York dealers because they received special lower prices for contract hardware.

Q On what jobs did Mr. Healy ask you to submit a complimentary bid?

A Abbott Laboratories in North Chicago, replacement materials for the Federal Building --

The Illinois Tollway Commission, replacement materials. There were a couple of others, but I can't recall exactly what jobs they were on.

Q What, exactly, did Mr. Healy say to you when he asked you to submit complimentary bids?

A He said that Ken-Lee's price was such-and-such and to bid higher than Ken-Lee's price.

(Oaks Tr. 73-74)

3. The West End Baptist Hospital (1964).

Under Emhart's sales policy to prevent competition among distributors on existing masterkey jobs, Wagstaff Hardware was assigned the West End Baptist Hospital in Birmingham, Alabama. When an addition to the hospital was constructed in 1964, bids were solicited from general contractors in Birmingham and Montgomery, Alabama; New Orleans, Louisiana; and Houston, Texas. The specifications stated that the addition would be keyed to the existing Russwin masterkey system. Russwin then arranged to protect Wagstaff by having other distributors submit collusive bids above $50,000 to the out-of-town contractors. The bids were arranged by Russwin's southern sales manager, Glenn Wiley, as follows:

Russwin Dealer	Location of Contractor	Price	Alternate
Stauffler-Ashleman & Co.	New Orleans	$51,349.00	$725.00
Billings Southwest	Houston	$51,543.00	$769.00
Morton Sales	Montgomery	$50,997.00	$675.00

(Wiley Dep. Exhs. 29 and 30, undated)

A summary of the collusive bids that Russwin directed was handwritten by Wiley.*/

(Wiley Dep. Exh. 30, undated)

Moreover, Emhart's files contain two of the memoranda by which Wiley instructed the individual distributors to submit the collusive bids of $51,349 and $51,545 to general contractors in Louisiana and Texas.

(McCulloch Dep. Exhs. 36-A and B, February 1964)

4. Akron General Hospital (1966).

By letter of November 9, 1966, regional sales manager Rhynedance advised that the local Sargent salesman had requested that Standard Equipment & Supply submit a collusive bid on the Akron General Hospital to protect Cleveland Vision Supply (Don Poe). Rhynedance stated: "In the event [Standard Equipment & Supply] asks an opportunity to bid the job, I will see that he contacts Don Poe for a price for his general contractors."

(Rhynedance Dep. Exh. 13-A, November 1966)

5. New institutional buildings, Maryland Department of Correction.

Sargent's regional sales manager, A.E. Gray, instructed local salesmen to prevent dealers in the New York and Philadelphia areas from bidding on an extension to a masterkey system "established by our Baltimore account, the MacCarthy Company."

> In the event that one of your distributors should be asked for price and he feels he should oblige that contractor with a price, it is my suggestion that you contact Jim Stephens or MacCarthy in Baltimore for price.

(Gray Dep. Exhs. 31 and 32, August 1964)

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*/ When asked about this incident, and from whom he received directions, Wiley suffered the total lack of memory characteristic of witnesses in this case.

(Wiley Tr. 200-209)

6. The elementary school in Bedford, New Hampshire.

In order to protect Ilco's local distributor on a "master key job" and yet to satisfy the architect's request for a second bid, George Wheatley, Ilco's contract hardware product manager, instructed his salesman to arrange for submission of another quote at $5,500.

(Wheatley Dep. Exhs. 11 and 11-A, November and December 1966)

7. Hopkins County Hospital.

In 1965, Schiller Hardware informed Ilco that an addition to the Hopkins County Hospital would "be keyed in with our master key system" and requested Ilco to keep other dealers from quoting general contractors. Wheatley thereupon told his salesmen to make certain their respective dealers "do not bid on this job" or "upset the applecart."

(Wheatley Dep. Exhs. 16, 17 and 18, November 1965)

A year later, one of the other dealers complained to Ilco that for five years it had been forced to lay off jobs for Schiller Hardware.

(Wheatley Dep. Exh. 19, June 1966)

8. The Veterans' Hospital at Bedford, Massachusetts.

By letter of February 18, 1965, Wheatley wrote to Morris Falk, an Ilco salesman:

> Just a note to confirm my telephone call to you advising that the same Chicago Contractor who placed an order with Howell [Ilco's Chicago dealer] several years ago for the above facility, has another job there now.
>
> This work will be tied in with the masterkey system as was the previous job.

> To forestall complications again with our Boston Distributor, Shawnut Supply who established the masterkey for this project, I requested that you contact Walter Howell and see that they do not accept an order from this contractor. If it is necessary to save face that they quote him a price, let me know and I will secure the figure which to quote....

Falk responded:

> Walter informed. He will not quote. However, if the customer insists that he do so, he will not accept or give a complimentary bid. He wants to be clean with Uncle Sam. In such case he will take off the job and quote a high figure. (Emphasis added)
>
> (Wheatley Dep. Exh. 6, February 1965)

9. The University of Vermont (1965 and 1967)

(a) In June 1965, Harry Ambrose, Yale's Vermont account, wrote Yale salesman John Tooher that he expected "full cooperation from all Yale distributors" on the University of Vermont Medical Building job.

(Talgo Dep. Exh. 50, June 1965)

Tooher queried contract hardware marketing manager Harry Talgo about this request:

> Can we count on cooperation of Dave Eskin [Yale's Boston account] and any other New York contract account who might want to bid on job?
>
> (Talgo Dep. Exh. 51, June 1965)

Talgo responded with these instructions to Yale's northeast regional sales manager Davenport Cleveland: "Dave - Keep the wolves off."

(Talgo Dep. Exh. 51, June 1965)

Within days, Cleveland reported to Talgo that Yale's New York account had agreed to submit a complimentary bid.

(Talgo Tr. 439)

> As requested by Harry Ambrose and John Tooher I have discussed above job [University of Vermont Medical Building] and he has agreed to cooperate on the initial bid.
>
> (Talgo Dep. Exh. 52, July 1965)

(b) With respect to the University of Vermont Life/Science Building Tooher wrote Cleveland:

> Harry Ambrose requests that other Yale bidders - i.e., Dave Eskin & Elmer Hebert submit complimentary bids if asked to bid.
>
> (Talgo Dep. Exh. 53, January 1966)

Cleveland urged the following illegal course:

> Arrangements such as this must be worked out between the accounts themselves. I will indicate our wishes to Tom Hebert and will have [Yale salesman] Tom Wemyss do the same to Eskin, but will be up to Harry Ambrose to contact each and work out the deal.
>
> (Talgo Dep. Exh. 54, January 1966)

Other examples of Collusive Bidding.

10. McCulloch Dep. Exh. 37: Memorandum from O'Neill to McCulloch, August 19, 1964.

> O'Neill asks McCulloch how to arrange for a complimentary bid in Hawaii. McCulloch writes back: "Suggest they bid 23-1/3% [and] TH-D bid 25 or a little less. What about 3rd bidder."

11. Wiley Dep. Exh. 11: Memorandum from Wiley to McCulloch, March 17, 1963.

> Upon request for protection by Arkansas Builders Supply, Wiley asks McCulloch and the local Russwin salesmen to prevent any Corbin or Russwin accounts from bidding on jobs at the University of Arkansas.

12. Wiley Dep. Exh. 9: Letter from Arkansas Builders Supply to Wiley, April 1, 1963.

> Arkansas Builders Supply requests Wiley to "advise other R & E dealers ... to please 'stay off'" an extension to the Methodist Nursing Home. Wiley's handwritten notation shows that he wrote the competing dealer in Arkansas, with copies to Arkansas Builders Supply and the local Russwin salesman.

13. Wiley Dep. Exh. 12: Memorandum from May to McCulloch, June 23, 1962.

> May, the local Russwin salesman, tells McCulloch, with a copy to Arkansas Builders Supply, that Arkansas Builders Supply has advised him that "they suspected" the contractor who submitted the low bid "was going out of state for an R & E hardware price" on the Helena, Arkansas Hospital. He therefore asked McCulloch to stop other dealers from quoting on the job and stated: "I am writing to my accounts requesting that they not put out a price."

14. Wiley Dep. Exh. 46: Memorandum from Wiley to McCulloch, May 22, 1964.

> Wiley reports that he arranged for Arkansas Builders Supply to complement bids submitted by the protected dealer Hutt Building Material on a job at Arkansas A, M & N College.

15. Wiley Dep. Exh. 44: Memorandum from Wiley to W. S. Lee Co. (Tallahassee, Florida), May 15, 1962:

> Upon request from W. S. Lee Company that other dealers not "[illegible]" on bids for additions to several public schools in Georgia,
>
> (Wiley Dep. Exh. 43)
>
> Wiley advised W. S. Lee: "I talked with Gordon at Stump Bros. and explained the above are your key systems. He agreed to go along. Lon Shaddrick actually handles this type work. Gordon will talk with him and I suggest that you call Shaddrick and give him figures to use as a comp. bid. Refer to my conversation with Gordon."

16. Lichtenfels Dep. Exh. 14: Letter from Lichtenfels to Piedmont Hardware & Supply Co., April 13, 1966:

> Lichtenfels thanks Piedmont Hardware for its "cooperation" with Russwin and another dealer by withdrawing its bid after Russwin advised that Piedmont had bid on addition to Catoosa County Schools in Atlanta, Georgia, "when we should not have done so."
>
> (Lichtenfels Dep. Exh. 13)

17. McCulloch Dep. Exh. 22: Memorandum from Maher to McCulloch, December 30, 1969.

> Maher advises that he has gotten a non-local dealer "not to quote any figures on the Deershead State Hospital in Salisbury, Maryland."

18. McCulloch Dep. Exhs. 39 and 40: Letter from McCulloch to Tri-State Builders Hardware Inc., July 18, 1962.

> "I have been advised by Smith Brothers that they have a job coming out for bids ... I hope you will cooperate with them as we have tried to have various accounts around you cooperate in similar situations."

McCulloch Dep. Exh. 41: Letter from McCulloch to Smith Brothers Hardware Co., July 30, 1962, with a copy to Tri-State Builders.

> "I have had a reply from Mr. Hoffmanster of Tri-State Builders Hardware regarding the University job that is going for bid at Athens on August 14. They state they will not take the job off but would like to have someone from Smith Brothers contact them prior to bid time.
>
> Will you please do this."

19. Wiley Dep. Exh. 31: Memorandum from Wiley to McCulloch, January 5, 1966.

> Wiley advises that Magstaff Hardware Company was "able to control the bidding [on the Florence, Alabama courthouse] with the possible exception of Belnap" and asks McCulloch to "alert Belnap to stay off the job."

C. The impact of defendants' illegal agreements and concerted action upon prices of contract hardware.

The conspiracy inflated prices of contract hardware in several different ways. Defendants sell contract hardware only through their own established or "franchised" contract hardware dealers; dealers then sell all contract hardware for construction jobs as a package. Consequently the conspiracy enabled defendants and their dealers to obtain prices above competitive levels for all contract hardware required on master-key jobs.

1. Defendants fixed and stabilized prices of contract hardware above competitive levels.

The defendants met and exchanged price information in order to keep their list or book prices at non-competitive levels. This arrangement included not only prices to contract hardware dealers, but also prices to metal door manufacturers, such as Ceco and Fenestra. Moreover, defendants took concerted action to stabilize the prices quoted for contract hardware by dealers on masterkey work.

2. Defendants gave no price concessions to dealers on additions of masterkey systems or other protected work. This factor alone inflated the prices 10-20%.

When faced with competition on some new jobs, defendants would give their dealers price concessions of 10 to 20% off the book prices. Price concessions of 10% were often left to the discretion of the regional sales managers.

(Gray Dep. Exh. 26, August 1966)

Because there was no real competition on additions to existing masterkey systems, however, defendants refused to give any concessions or "special discounts" to dealers.

(Kazmer Dep. Exh. 15, July 1964;
Materne Dep. Exh. 22, July 1965;
Rhynedance Dep. Exhs. 10 and 18, March and May 1966;
Talgo Dep. Exh. 73, June 1965;
Gray Dep. Exh. 11, May 1959;
Gray Dep. Exhs. 12 and 13, January and July 1962;
Gray Dep. Exhs. 14 and 15, March and April 1964;
Gray Dep. Exh. 16, April 1966;
Gray Dep. Exhs. 17 and 18, October and September 1963;
Gray Dep. Exh. 46, February 1964;
Gray Dep. Exh. 47, May 1966)

As a result of infringement on masterkey jobs or protected territories, defendants were sometimes forced to give discounts off the book prices to protected dealers. These

discounts ran as high as 20%.

(O'Neill Dep. Exh. 7, July 1969)

Ordinarily, though, dealers were expected to put hefty mark-ups on masterkey additions, so no price cuts had to be given by the manufacturers.

(Pantas Dep. Exh. 15, March 1962)

As Henges Hardware wrote to Corbin in response to criticisms about its bidding practices:

> We had a 32 percent markup on this job because it was a closed master cylinder specification and also because we understood and were told by you folks, that jobs like this should carry a 33-1/3 percent markup.
>
> (Kammer Dep. Exh. 17, May 1963)

In a similar circumstance, a dealer informed Russwin that:

> They put a third markup on anything they bid to the State [of Florida], and they do not feel that they are cutting prices or trying to undermine any master key system.
>
> (Wiley Dep. Exh. 14, January 1961)

Another dealer accused of breaking a masterkey system explained that he had to keep contractors happy; so he had used book prices and added 33-1/3%.

(Wiley Dep. Exh. 34, May 1961)

Other dealers put 50% mark-ups on bids to show a competitor that they were "not really after his master key."

(McCulloch Dep. Exh. 44-B, May 1965)

In addition, price concessions were not given on jobs specifying another manufacturer's hardware,

(Gray Dep. Exh. 26, August 1966)

or on jobs outside a dealer's assigned territory.

3. Dealers raised prices on additions to master key systems and other protected jobs.

The conspiracy enabled dealers to charge inflated prices for those jobs that were protected. These prices ranged from 20 to 50% above competitive levels.

(Maher Dep. Exhs. 7 and 8, March 1963)

As Bauman stressed to a Corbin dealer:

> [I]t is always our intention to protect our distributor's master key system ... the matter of master keyed protection is one of the so-called "sacred cows" of the builders' hardware industry and happens to be a so-called "fringe benefit" for any builders' hardware distributor.
>
> (Bauman Dep. Exh. 26, Nov. 1961)

The industry recognized that dealers were entitled to larger mark-ups on masterkey extensions.

(Healy Dep. Exh. 4, November 1961)

Reporting on the investigation that preceded the federal government's civil suits, Sargent salesmen told Eli Yale that an FBI agent had asked one dealer many questions pertaining to "the hardware industry's pricing policies on masterkey work versus competitive work." (Emphasis added)

(Yale Dep. Exh. 1, Sep. 1967)

Defendants acknowledged in memoranda that masterkey jobs ordinarily did not involve "actual competitive conditions."

(McCulloch Dep. Exh. 43, May 1961)

and recognized that because of their illegal agreements additions were sold at inflated prices, or in the words of Yale's Boston dealer, D. H. Eskin, at a "higher cost."

(Talgo Dep. Exh. 70, March 1966;
Talgo Dep. Exh. 42, December 1964)

D. The measure of damages may be calculated from evidence that actual competition in violation of defendants' illegal agreements substantially reduced prices for these jobs.

The conspiracy effectively prevented competitive bids, but there were occasions when distributors "cheated" and obtained jobs at prices far lower than the figures quoted by the protected dealers, or forced the protected dealer "to drop his price."

(Thompson Dep. Exhs. 11-14,
Arpil-May 1965)

The defendants, of course, would not sell hardware to these maverick dealers if the order were caught. For instance, one Russwin dealer was asked to submit a complimentary bid at $4,650 on a job with a cost of $2,355; instead, because he did not want to offend the architect, the dealer secured the job at $3,300 or 40% mark-up. Emhart refused to fill his order, advising him to buy the materials through the protected dealer.

(Lichtenfels Dep. Exhs. 11 and 12. March 1966)

Some examples of the price differentials between protected and competitive work are listed below.

(1) A Russwin salesman reported to Lichtenfels in July 1963 that the conspiracy had broken down in Tennessee and "this had brought about a condition of most every account disregarding everyone else's key system." As a result:

> [T]o secure a job any more you have to beat the manufacturers down to the lowest possible figure before the bidding and then take a gross profit mark-up between 5% and 10% and the size of the job does not seem to make any difference.

(Wiley Dep. Exh. D, July 1963)

This would compare with the 30% and higher mark-up which dealers usually put on masterkey jobs.

(2) Subsequent to the consent decree in the federal government's civil actions, Corbin refused to sell hardware to a dealer, New Market Hardware Co., who was the successful bidder on an order from the City of St. Louis. Corbin told New Market that the order was "tied in with a masterkey contract belonging to the Henges Company."

(Kazmer Dep. Exh. 2-A, April 1970)

This refusal to deal forced St. Louis to purchase hardware from Henges at a "higher non-competitive price," 50% above the price quoted by New Market Hardware Co.

(Kazmer Dep. Exhs. 3, 4, 5 and 6, Feb. and Mar. 1970, and Nov. 1969)

(3) Warner Hardware Co. of Minneapolis reported to Corbin that it bid $10,700 on an existing masterkey system, but "to our complete amazement, Hobbs Supply (Russell Erwin Dealer) bid the job at $7,700 which is approximately our cost."

(Parsons Dep. Exh. 13, June 1961)

(4) On a contract hardware project for a new elementary school tied to an existing masterkey system in Topeka, Kansas, the Sargent dealer bid $4,675, or 36% above book cost of $3,392; the Yale & Towne account took the job at $4,600.

(Yale Dep. Exh. 4, April 1963)

Sargent thereupon put a "stop" on any order for that masterkey system.

(Yale Dep. Exh. 5, April 1963)

(5) Bauman complained to McCulloch that a Russwin dealer had taken a job in a Corbin dealer's area cutting prices 10%, adding: "I can't understand why Mike wants to 'bomb' jobs outside of the Houston area and cause a price battle."

(Bauman Dep. Exh. 76-A, March 1964)

(6) By memorandum dated March 6, 1964, Gray reported to Eli Yale that a Sargent dealer had taken a job outside his area by cutting prices approximately 10%.

(Gray Dep. Exhs. 49-A and 49-B, March 1964)

(7) Upon complaint that Hudgins & Sons took a masterkey extension at a 20% mark-up when the protected dealer added 33-1/3%, Sargent refused to fill orders from Hudgins, forcing it to buy the hardware from the protected dealer.

(Thompson Dep. Exhs. 15, 16 and 17, December 1968)

(8) A maverick Russwin dealer bid on Sargent specifications for the Washburn University in Kansas, taking the job at $46,200, while the Sargent account bid $54,484, or a mark-up of 50% on its cost of $36,322.

(Rhynedance Dep. Exh. 20-B, March 1969)

Sargent prevented the bootlegging of the hardware.

(Rhynedance Dep. Exhs. 20-A and 20-C, May 1969)

(9) By "disregarding" the specifications that an elementary school be "keyed to the existing Corbin system," a maverick dealer cut prices more than 15%.

(E-9600, February 1962)

(10) In 1963, Glass, Sash & Door, a Russwin account in Alaska, "bid into a job which was specified" as a continuation of a Corbin masterkey system and took the order at a mark-up of 50% above cost plus freight. Although the job was located in Palmer, Alaska, the protected dealer was located in Seattle, Washington.

(Bauman Dep. Exhs. 32 and 33, August 1963;
O'Neill Dep. Exhs. 16 and 17, August 1963)

(11) A Sargent masterkey system was broken by a maverick dealer who bid $1,450, or more than 20% below the protected dealer's price of $1,864 on materials having a cost of $1,280.

(Rhynedance Dep. Exhs. 17-A and B, June 1965)

(12) McCulloch complained to Deady, regional sales representative, that a maverick Russwin dealer had cut his mark-up to 5% and taken a job "that was set up for Howell [the Ilco dealer] and Morrison [the local Russwin dealer] was going to cooperate because he was going to get something in the future."

(McCulloch Dep. Exh. 14, March 1962)

The influence of competition upon prices set by defendants may also be illustrated by reference to the situation in New York City. Despite the effective efforts by defendants to allocate jobs and customers among dealers in metropolitan New York, the concentration of population caused rather strong competition to remain. Consequently, defendants adopted the practice of [illegible] 10% discounts off book prices to the New York City dealers.

(E.g., Materne Dep. Exhs. 21 and 22, April and July 1965;
Gray Dep. Exh. 17, October 1960;
Gray Dep. Exh. 52, undated;
Gray Dep. Exh. 57, December 1960)

V. DEFENDANTS ELIMINATED PRICE COMPETITION AMONG THEIR OWN DEALERS BY ALLOCATING MASTERKEY JOBS AND ASSIGNING DEALERS TO EXCLUSIVE TERRITORIES

The defendants implemented and reinforced their horizontal conspiracy to protect masterkey jobs from competition by allocation of masterkey systems and territories among their own dealers. These illegal vertical agreements gave distributors complete protection on masterkey jobs in their assigned territories. Consequently, dealers accepted restraints imposed by defendants on competition and helped to enforce these restraints.

A. Prohibition against bidding on another dealer's masterkey system.

Besides agreeing and taking concerted action to eliminate interbrand competition on existing masterkey systems, each defendant prohibited its dealers from selling hardware to extend masterkey systems that had been originated by a fellow dealer, or assigned by defendant to a fellow dealer. Because defendants kept the keying records for all projects at their factories, organized by state and type of building, they were able to control the dealers through whom they sold contract hardware for masterkey jobs.

It was understood in the industry that existing masterkey systems belonged to the defendants who, in turn, allocated them among their respective dealers. For instance, if a dealer went out of business or began to represent another manufacturer, the masterkey jobs recorded in his name at the factory were then given to other dealers.

(Bauman Dep. Exhs. 74-A and 74-B, December 1964;
Talgo Dep. Exh. 9-C, March 1962)

As George Rhynedance explained to a Sargent salesman:

> In the transition of any marketing area the masterkeys in that marketing area become the property of the new customer by Sargent's decision. Masterkeys actually are the property of Sargent & Company, not the customer.
>
> Customers are allowed to bid on masterkeys at our pleasure.
>
> (Rhynedance Dep. Exhs. 15-A and B, October 1966)

The general sales policies of the defendants prohibited dealers from bidding on another dealer's masterkey system.*/

Emhart stated its policy against intrabrand competition in strong language:

> 1. It is the policy of the Corporation to protect master key systems established by either division against breaking or efforts to break the other division's system.
>
> 2. Where it is known that a dealer of either division secures an order on the basis of buying the locks less cylinders from one division and plans to bootleg the required cylinders to continue the system of the other division, the order for locks will be refused by that division.
>
> 3. Where a dealer of one division deliberately and willfully makes an effort to break a master key system of the other division and is successful, that dealer will lose the line.**/
>
> (Lichtenfels Dep. Exh. 31 re. Russwin, August 1959; Bauman Dep. Exh. 79 re. Corbin, August 1963)

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*/ Certain exceptions were made in situations where the restrictions would be so obvious that they make purchasers, especially public agencies, suspicious.

(Gray Dep. Exh. 8, February 1958; Salaman Dep. Exh. 16, May 1962)

**/ These memoranda do not use the phrase "break a master key system" in the technical sense, but rather as a shorthand description of the prohibition against competition for existing masterkey systems.

Russwin (through W.C. Lichtenfels) advised its sales force that it would refuse to sell hardware for an existing masterkey system to anyone other than the originating dealer.

(Deady Dep. Exh. 18, December 1963)

Sargent stated to its sales force:

> It is the policy of the company to furnish additions to masterkey systems through the accounts which originally established the masterkey.

(Gray Dep. Exh. 8, February 1958)

> Additions to masterkey systems will be furnished through the accounts which originally established the masterkey.

(Healy Dep. Exh. 2, June 1964;
Gray Dep. Exh. 35, February 1964;
Gray Dep. Exh. 36, February 1964;
Gray Dep. Exh. 38, September 1964)

Ilco's policy was summarized by George Wheatley:

> For many years it has been the policy of this company that when a new master key system is established, the contract distributor establishing the master key system has a priority claim to that system and no quotations for additional locks keyed into the system will be made to any other contract distributor unless permission is received from the originating contract distributor to do so.
>
> * * *
>
> The above policy applies regardless of the location of the project or the location of the contract distributor.

(Materne Dep. Exh. 17-B, October 1965

Ilco sought to keep close records of masterkey jobs and to "promote a clear understanding" of the protection that Ilco would extend in order to "assure perpetuation of existing and future key systems at profitable prices."

(Hicks Dep. Exh. 5, November 1965;
Hicks Dep. Exh. 6, undated;
Hicks Dep. Exh. 8, October 1964)

Yale: The vice-president of John E. Gannaway & Co., a Yale account in Lynchburg, Virginia, stated in December 1966, in a letter to Yale's order department:

> I quote Mr. Snyder's written remarks to me -- "Our company's policy is to protect the concern that establishes the original Master Key."
>
> (Hettling Dep. Exh. 5, December 1966)

Snyder was a Yale employee who reported directly to Harry Talgo, the general sales manager.

(Talgo Tr. 139-140)

Defendants appointed dealers to sell their contract hardware on the express condition that they not quote on any additions to masterkey systems established by other dealers, unless the job were first cleared with a factory representative.

(E.g., McCulloch Dep. Exh. 24, November 1956; Wiley Dep. Exh. 2, June 1959; Wiley Dep. Exhs. 5 and 6, Aug. 1962)

These agreements were written and verbal. For instance, Russwin's Chicago sales manager reported to Lichtenfels in 1965 that the local salesmen

> ... have been instructed as to our policy here in Chicago and are thoroughly familar with it now. All understand that there can be no deviation to it either by them or by the Accounts they are calling on. It is also understood that all master keys must be assigned by me and that if a particular job is not on their Dealer's list, they must not bid the job. Such an assignment will be made by me and they will then inform their Dealer of the assignment.
>
> (Lichtenfels Dep. Exh. 37, August 1965)

This policy included hollow metal door manufacturers, such as Ceco, who accepted the restrictions against bidding on existing masterkey systems.

(Deady Dep. Exhs. 9 and 10, July 1965)

Deferdants sought approval of established dealers for appointment of new dealers and reassured existing accounts that their masterkey jobs would be protected.

(Maher Dep. Exh. 12, October 1964;
Maher Dep. Exh. 13, April 1962;
McCulloch Dep. Exh. 24, Nov. 1956;
Wiley Dep. Exh. 21, August 1961;
Wiley Dep. Exh. 22, April 1961;
Wiley Dep. Exh. 23, July 1961;
Hettling Dep. Exh. 9, June 1962;
Thompson Dep. Exh. 4, August 1965)

For example, in 1962, Yale's general sales manager, James D. Young, wrote to Pierce, Yale's Dallas account, that "Harley Webb in Fort Worth has taken on our line of contract builders' hardware" and that Young was "concerned with Pierce's request" to be protected from competition by Webb on "Yale masterkeys" that Pierce had "established in Texas." Young urged that Pierce prepare a list of its protected masterkey systems which would be "known by Harley Webb." Such a list, said Young, would spare Yale the "time and expense" of checking each masterkey job as it came up.

(Talgo Dep. Exh. 12, September 1962)

Existing accounts were protected even when the masterkeys they had established were located in a territory later assigned to another dealer.

(Hettling Dep. Exh. 8, May 1962;
Materne Dep. Exhs. 17-A and 17-C,
October 1965)

Dealers were repeatedly reminded by defendants "in no uncertain terms" that they could not infringe on another dealer's masterkey system and that the sales representatives would decide "ownership of the masterkey systems."

(Salaman Dep. Exh. 20, Sep. 1964;
Reilly Dep. Exh. 4, April 1966;
Wright Dep. Exh. 31, January 1966)

For example, James Young, Yale's general sales manager, advised his salesmen:

> I want it clearly understood that no builders' hardware firms who have offices either in Los Angeles or outside of Los Angeles are permitted to bid on any ... masterkey jobs whether set up by the Los Angeles Hardware Company or on any masterkey jobs set up by companies who formerly handled our hardware products ... [Los Angeles Hardware Co.] should be continued to be protected on these systems in spite of the fact that perhaps since setting up the systems we did establish other outlets for builders' hardware.
>
> (Hettling Dep. Exh. 23, March 1961)

In this connection, defendants conducted meetings among their distributors, on national and regional bases, to discuss the prohibition against "breaking of existing master key systems."

(Wright Dep. Exh. 29, Jul. 1964; Yale Dep. Exhs. 31 and 32, October 1963)

At the same time, protected dealers were assured that there would be "no interference on any of the masterkeys you have established or the ones inherited from [former dealers]."

(Gray Dep. Exh. 30, July 1964)

Accordingly, dealers not only cooperated with defendants, but encouraged industry-wide enforcement of the restraints on competition.

(Bauman Dep. Exh. 82, Nov. 1963)

As McCulloch summarized Emhart's policy:

> That has been one of our points in having a RUSSWIN line in an area is that we protect the dealers and ask the dealers to protect each other so that they can make money.
>
> (Lichtenfels Dep. Exh. 38-A, May 1956)

Sargent dealers "agreed that it was not proper to bid the masterkey of another distributor."

(Reilly Dep. Exh. 3, January 1969)

As O'Neill reported to McCulloch:

> Generally our distributors want to comply and conform. What is good for the others is good for them. They share and enjoy the same protection.

(O'Neill Dep. Exh. 11, Aug. 1964)

The system worked effectively to prevent intrabrand competition on masterkey jobs. Still, defendants kept close watch to prevent violation of their "published policy" against bidding on masterkey systems.

(Wiley Dep. Exh. 32, December 1963)

When a dealer sought to compete on jobs belonging to other dealers, defendants were ordinarily able to convince him "to stay off" such jobs and not create problems that would threaten the understandings among dealers.

(Baumer Dep. Exhs. 84-A to 84-C, March and April 1963)

Sometimes rather than try to resolve disputes between dealers, defendants simply refused to fill orders from anyone other than the protected dealer, who could then secure compensation for losing the job. In one such incident, Earl Materne, Ilco's national sales manager wrote a local salesman that Rapid Hardware "was quite upset over the fact that Commercial Hardware, Detroit, bid and was awarded" the hardware contract for an addition to the Collins Elementary School in Grand Rapids, Michigan. Ilco helped arrange an agreement for Commercial to pay $200 compensation to Rapid, but Materne added: "[I]t would be my thinking Commercial should have been told they would have to purchase the hardware through Rapid Hardware at whatever

price Rapid would charge. This would act to prevent further encroachments by Commercial Hardware into other franchised Distributor areas. This would also show Rapid Hardware that we mean business."

(Materne Dep. Exh. 16-A, June 1965)

In response to further explanation from the salesman, Materne directed him in the future to "have the offending distributor buy the goods through the offended distributor. This will prove that we stand by our policy."

(Materne Dep. Exh. 16-C, June 1965)

B. Defendants assigned their dealers to specific territories and prohibited them from bidding outside those areas.

Defendants sold contract hardware only through franchised or established dealers. These dealers were assigned a specific geographical region and told not to bid on jobs or sell contract hardware outside that area. In return, each dealer was assured and understood that no other dealers would bid in the trading area to which he was confined.*/

(Lichtenfels Dep. Exh. 40, March 1962)

Defendants strictly enforced their allocation of territories upon complaints of infringement by protected dealers or salesmen.

Defendants prohibited dealers from bidding outside their territories even when the job was located in an area to which no other dealer had been assigned.

(Materne Dep. Exh. 12, Feb. 1964)

In more sparsely populated regions, defendants arranged with

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*/ Exceptions were made in certain large metropolitan areas, such as Chicago and New York, where jobs were allocated according to the type of building project, who originated the masterkey system, or who prepared the specifications.

their dealers to leave buffer zones between assigned territories open to more than one dealer.

These understandings with dealers remained in force despite changes in franchise language in the late 1960's under pressure of federal investigations. For example, in August 1970, Wagstaff Hardware Co., Russwin's account in Sheffield, Alabama, still felt it necessary to ask Russwin's permission to bid on two TVA projects because one was located in Tennessee outside Wagstaff's "trading area."

(Wiley Dep. Exh. 48, August 1970)

Emhart Corporation (Russwin and Corbin)

Russwin and Corbin dealers were given exclusive areas upon their agreement inter alia, not to bid on jobs or sell hardware outside those areas. For example, William Lichtenfels, now vice-president of Emhart, advised a new distributor:

> Our policy is such that you are to be completely protected on all RUSSWIN specifications that you write in your exclusive area. No other RUSSWIN dealer may enter a bid in your area without your or our permission. All existing RUSSWIN master key systems and any RUSSWIN master key systems established in the future in the above mentioned area, is yours exclusively.
>
> (Lichtenfels Dep. Exh. 38, July 1959)

The following documents illustrate arrangements to allocate territories:

(Wiley Dep. Exh. 1, March 1960;
Wiley Dep. Exh. 3, April 1957;
Wiley Dep. Exh. 4, April 1959;
McCulloch Dep. Exh. 3, May 1956;
McCulloch Dep. Exh. 15, Jan. 1962;
McCulloch Dep. Exhs. 16, 17 and 20, May 1959;
McCulloch Dep. Exhs. 18 and 19, August 1959;
McCulloch Dep. Exh. 28, March 1962;
McCulloch Dep. Exh. 29, June 1965)

Emhart conducted meetings among its dealers to define their territories and to secure agreement from the dealers not to compete in anyone else's territory and to "cooperate with each other."

(McCulloch Dep. Exhs. 6-9 and 11, June and July 1961; Bauman Dep. Exhs. 15 and 16, October and November 1962; McCulloch Dep. Exh. 13, October 1961)

Upon complaint of territorial infringement, Emhart brought the maverick dealer into line and reassured the complainant that it would enforce its sales policy to prevent a re-occurrence.

(Wiley Dep. Exh. 19, April 1966)

A warning to the maverick dealer was usually sufficient.

(McCulloch Dep. Exh. 21-A, Sep. 1962; Lichtenfels Dep. Exhs. 15 and 16, October 1964, and undated)

In response to a complaint from Adolph Soelfing & Co. in 1964,

(McCulloch Dep. Exh. 2-A, April 1964)

Lichtenfels wrote that the other distributor

> ... was returning the contract for the Lake Track Elementary School to the contractor....
>
> They were entirely wrong in making any effort to go after this particular project, as it was outside of their jurisdiction and they have assured me that they will do everything possible to maintain the good relations between your firm and ours.

(McCulloch Dep. Exh. 2-A, April 1964)

Following a complaint by Pleasants Hardware, Russwin told Burton Lumber Corp. to "refrain from quoting Richmond contractors on all future work."

(McCulloch Dep. Exh. 1-A, Feb. 1956)

Burton readily agreed.

(McCulloch Dep. Exh. 1-B, Feb. 1956)

Thereupon W. J. Ziegenhein, vice-president of Russwin, wrote that Burton's "cooperative attitude ... is most appreciated by us, as well as by Pleasants Hardware of Richmond."

(McCulloch Dep. Exh. 1-C, Feb. 1956)

Otherwise, dealers were simply told that Emhart would not sell them contract hardware for projects outside their assigned territory, or terminated.

(Wiley Dep. Exh. 8, March 1961; Wiley Dep. Exhs. 24-26, Jan. 1961)

For instance, McCulloch advised Binswanger & Co. of Memphis, Tennessee:

> I have just learned through our account in Sheffield, Alabama that you are planning to furnish the finishing hardware for the above two projects through the General Contractor, G.E. Bass, of Jackson, Mississippi.
>
> * * *
>
> Since the particular project involved is located in Sheffield, Alabama which, of course, is outside of your area, we would not be in a position to ship you the RUSSWIN materials involved in these particular projects. I am sure you appreciate that we make every effort to extend protection to our distributors in the particular area they operate and, of course, this would naturally apply to your company in connection with any new masterkey systems which were originated in your trading area.

(McCulloch Dep. Exh. 5, Aug. 1959)

Emhart entered written franchise agreements with its dealers which were designed and understood to restrict the dealers to their assigned territories.

(Lichtenfels Dep. Exhs. 41-44, November and December 1964)

In addition, franchises were set up to exclude dealers from bidding on certain types of projects, such as public works, in particular areas, even though defendants knew that was illegal.

(Lichtenfels Dep. Exh. 44, November 1964)

As McCulloch explained to his salesmen:

> You cannot put in a franchise that a certain account will stay off the other account's specifications, types of jobs etc. This is not legal. What you have to do is to say that this account can bid the following types of work only. This then should keep them off of the other accounts that you might have in the same area.
>
> (McCulloch Dep. Exh. 23, Nov. 1964)

The franchise language was altered to comply with restraint of trade laws in some states, but the dealer was still assigned a primary area with instructions designed to "keep him within the boundaries." McCulloch wrote to a local Russwin salesman in 1962:

> Under Texas law, the account is free to quote anywhere in Texas except, however, that you can assign him a primary area which he will generally stay within so in effect you can still exercise what we do elsewhere in the country with the contract accounts.
>
> (McCulloch Dep. Exh. 27, Mar. 1962)

Even without written franchises, Emhart maintained its sales policy against dealers bidding outside their own territory. In a memorandum to Wiley, McCulloch related the following conversation with a maverick dealer:

> I told Jack Dean that if he quoted this job and was low, we would not supply the material to him ... I said that ... we had a sales policy that we expected our dealers to maintain. He then replied that he didn't know of any sales policy like this.... He understood that it was a gentlemen's agreement but if the gentlemen didn't behave, and agree to the agreement, they could do as they wanted. Jack was just playing with words here because he is very familiar with our policy even though it is not in writing.

McCulloch advised Wiley:

> In straightening out these people, I would have it understood by both parties that they are not to bid in each other's city under any condition unless they have cleared it first with you or

> or New Britain. This old story that the contractor in their area wasn't getting a bid from the hometown dealer doesn't go. I would rather not see a bid put in than to have this happen.
>
> (McCulloch Dep. Exh. 4, Apr. 1959)

Sargent & Company

Internal corporate sales memoranda set forth Sargent's general sales policy regarding exclusive territories.

Sargent's "Manual of Policies" (December 1957) provided:

> The nature of contract distribution lends itself to exclusive franchises in well defined territorial areas. Along with the granting of exclusive franchises must go the obligation on the part of customers to purchase from Sargent & Company, and no one else, the full line of products manufactured by Sargent & Company. This refers to such items as Locks, Exit Bolts, Door Closers, Pull and Push Plates, and other Miscellaneous hardware of our manufacture.
>
> (Gray Dep. Exh. 7)

A sales bulletin from Eli Yale to all contract hardware salesmen and sales managers, June 5, 1962, stressed:

> Below is a general statement of Sargent & Company's policy as it pertains to franchise areas and masterkey protection. It would be good to go over this in general with each of your customers.
>
> The policy of Sargent & Company is to distribute architectural hardware products through exclusive franchised outlets in well defined territorial areas.... This exclusive franchise area is to be respected by Sargent distributors from other areas.
>
> (Healy Dep. Exh. 2)

In a letter to all salesmen, January 5, 1960, J. B. Duff stated:

> Sargent & Company's sales policy is built around giving an exclusive franchise to a distributor in an area. On so doing there is a reciprocal responsibility on the part of the distributor to give Sargent exclusive representation.
>
> (Salaman Dep. Exh. 3, Jan. 1960; Gray Dep. Exh. 25, Dec. 1959)

This policy was explained at NBHA and ASAHC conventions, and annual meetings of Sargent dealers.

(Salaman Dep. Exh. 2, May 1961;
Thompson Dep. Exh. 1, May 1968)

For example, H. R. Giese, the president of Sargent, explained to 160 dealers at a 1963 convention that: "Sargent & Company has been committed to the policy of the exclusive franchise. Our plans include the continuation of that policy."

(Yale Dep. Exhs. 31 and 32,
October 1963)

By written franchises, and on a verbal basis, Sargent allocated territories among its dealers upon the understanding that dealers would "not infringe on anyone else's territory."*/

(Rhynedance Dep. Exh. 4, Mar. 1966)

In form letter to its dealers, Sargent stressed the written franchise assigning an "area of exclusive sales" and incorporated policies "that we have tried to follow for years."

(NYC Yale Dep. Exh. 3, Aug. 1964)

These arrangements were worked out among dealers in adjacent territories.

(Rhynedance Dep. Exh. 1, Nov. 1967;
Rhynedance Dep. Exh. 5, May 1966;
Rhynedance Dep. Exh. 6, Oct. 1965;
Rhynedance Dep. Exh. 7, undated;
Rhynedance Dep. Exh. 8, Oct. 1967;
Salaman Dep. Exh. 6, March 1964;
Salaman Dep. Exhs. 7-8, Dec. 1964;
Thompson Dep. Exhs. 6-9,
October and November 1964;
Thompson Dep. Exh.10, June 1965)

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*/ In some instances, competition was so completely limited that jobs were lost "as a result of a misunderstanding as to which one of these accounts would bid where."

(Salaman Dep. Exh. 7, December 1964)

In metropolitan areas such as New York City, Sargent established several dealers, allocated masterkey jobs among dealers, and assigned dealers to particular types of work such as school construction.

(Gray Dep. Exh. 50, October 1964;
Gray Dep. Exh. 52, undated;
Gray Dep. Exh. 57, December 1963)

If dealers bid outside their area, Sargent refused to sell the contract hardware to them. In a letter of March 1, 1968, George Rhynedance returned an order to Dave Oaks, a Chicago area dealer "since this project is out of your marketing area."

(Oaks Dep. Exh. 4a, March 1968;
Oaks Dep. Exhs. 4b, 5-7, Feb. 1968)

Dealers were prevented from bidding outside their territory even when the protected dealer "has not been very successful or even willing to take [the work] at a price."

(Yale Dep. Exh. 30, January 1965)

For instance, upon complaint from its local dealer in San Antonio, Texas, Sargent secured agreement from Robinson Co., the Austin, Texas dealer to "keep the peace" by not bidding on private or public jobs in San Antonio.

(Yale Dep. Exhs. 28-29, Dec. 1964)

Even though Sargent recognized it was illegal to "restrict government business," Eli Yale instructed local salesmen to achieve this by getting a "definite understanding" between Sargent dealers.

(Yale Dep. Exh. 30, January 1965)

As Dave Oaks testified:

Q As a Sargent distributor were you restricted to jobs in your sales territory?

A Yes, I was.

Q On occasion did Sargent return orders which you submitted for jobs outside of your territory?

A Yes, they did.

Q Do you recall any specific instances?

A I recall an instance in Mason City, Iowa, that they returned. I had a customer in Mason City, Iowa, which took an order from a Sargent distributor in that area and Sargent would not honor my purchase order.

(Oaks Tr. 88-89)

Q Did Sargent & Company refuse to sell you the hardware for the project at the Lutheran Home for the Aged?

A Yes, they did.

Q Did you discuss this situation with Mr. Rhynedance at any subsequent time?

A Yes. The next time I saw Mr. Rhynedance I told him that the policy stunk, but he said, "That's our policy. Either abide by it or get out."

Q What was Mr. Rhynedance's position at this time, on March 1, 1960?

A He was the Midwestern District Sales Manager.

(Oaks Tr. 94)

Ilco Corporation

Ilco's "contract sales policy" with regard to assignment of territories provided:

> All Contract #6 accounts should have a clearly defined geographical area in which they are our protected sole distributor for Contract Items....
>
> Situations will arise where the job is in one accounts territory and the Architect in another accounts area. Such matters should be resolved by the Regional Sales Manager with primary consideration given to the location of the job. In some cases it can be arranged for the two accounts to work together. Location of the Contractor should not be considered in determining which account is entitled to the job.
>
> (Materne Dep. Exh. 3, undated)

A dealer was not allowed "to seek work outside his normal area unless approval has been cleared with the contract accounts in the area effected" through the regional sales managers.

(Materne Dep. Ex. 2, August 1961)

Earl Materne, western sales manager, advised Sam Crissman, vice-president of Ilco in 1961, that:

> [P]resent company policy of clearly defined geographical territories in which the Lockwood Contract Distributor is protected is excellent and beneficial to both the distributor and the company.
>
> (Materne Dep. Exh. 4, August 1961)

When he became general sales manager, Materne wrote to all salesmen:

> Lockwood contract Distributors are only franchised to sell in their own marketing areas. Any order(s) to be shipped, or drop shipped, outside of their franchised area must, in good conscience, be investigated by the territory salesman, and if necessary, the Regional Manager to make sure of its validity. Should there be the slightest question - it should be immediately referred to the National Sales Manager.
>
> (Wheatley Dep. Exh. 20, undated)

In 1964, Materne suggested that Ilco's contract hardware sales policy be changed to permit dealers to bid on government jobs outside their own territories.

(Wheatley Dep. Exh. 21, undated; Hicks Dep. Exh. 6, October 1964)

Wheatley rejected this idea because it would not be possible to "police such a policy."

(Wheatley Dep. Exh. 22, Oct. 1964)

Ilco worked out specific agreements among contract hardware dealers to allocate jobs in larger metropolitan regions, such as Los Angeles

(Materne Dep. Exh. 1, June 1959; Materne Dep. Exh. 10, Feb. 1966)

and New York. An agreement was made with Ilco's three contract dealers in the New York metropolitan area and Long Island whereby each dealer bid only certain types of projects, such as schools or public housing. Meetings were held "every three or four

months" to prevent competition.

(Wheatley Dep. Exh. 24, Dec. 1959; Materne Dep. Exhs. 5-8, June-Oct. 1966; Wright Dep. Exh. 32, August 1965)

Similar arrangements were made with regard to "New York State work."

(Wheatley Dep. Exh. 28, June 1966)

Eaton (Yale)

Yale assigned exclusive territories to its distributors, forbade them to bid outside their territory and protected them from infringement by other dealers.

(Talgo Dep. Exh. 31, October 1961)

(1) Southern California

In 1961, Yale's general sales manager, James D. Young, wrote his salesmen that "out of this office we lay down our sales policy," that Los Angeles Hardware Co. had been assigned the Los Angeles market, and that smaller accounts set up outside Los Angeles were not to "interfere with the activity of Los Angeles Hardware when working on contract hardware jobs in our Los Angeles city trading area."

(Hettling Dep. Exh. 23, March 1961)

Yale dealers were not permitted to bid on a contract hardware job unless they cleared the matter through the Yale salesman, who had a list of all "jobs being bid by the Los Angeles Hardware Company."

(Hettling Dep. Exh. 23, March 1961)

Los Angeles Hardware received a copy of these instructions with Young's assurances:

> ... if there has been any interference with your sales activity, the attached copy of letter certainly removes this stumbling block.
>
> (Hettling Dep. Exh. 22, March 1961)

At the same time, Young warned his salesmen that "there are to be no deviations from our policies."

(Hettling Dep. Exh. 24, March 1961)

When Hoffman Hardware bid on the 186th Street School in Los Angeles, Young instructed his sales manager:

> ... to inform Hoffman Hardware that they are not permitted at any time to bid Los Angeles School Board work.
>
> (Talgo Dep. Exh. 23, October 1961)

Young took up the matter directly with Hoffman Hardware:

> It is necessary for us to support Los Angeles Hardware on School Board bids since they are our recognized contract builders' hardware outlet. Consequently, I hope you understand when I ask that you refrain from bidding on contract hardware work in the City of Los Angeles.
>
> (Talgo Dep. Exh. 24, October 1961)

When Hoffman Hardware subsequently bid on the Rowan Avenue School in Los Angeles, Young commanded his district sales manager:

> There are two direct violations in bidding on this job -- first, it is a Yale masterkey system -- second, it is a City of Los Angeles School.
>
> Please inform Bob Badham immediately that we will not recognize his order for the hardware for this school and that the hardware must be purchased from the Los Angeles Hardware Company.
>
> (Talgo Dep. Exh. 25, November 1961)

(2) Western States.

The still extant documents reveal that Yale set up dealers with exclusive territories and protected them from interference in Northern California,

(Talgo Dep. Exh. 9, March 1962; Talgo Dep. Exhs. 9-A and 9-3, January 1962)

Colorado,

(Talgo Dep. Exh. 36, March 1964)

and Texas-New Mexico.

(Talgo Dep. Exh. 37, July 1965)

Each dealer was assured that other accounts would not bid in its territory.

(3) Southern States.

In 1963, Capitol Hardware Company, Yale's Jackson, Mississippi account, wrote to Harry Talgo:

> We were pleased with your assurance that the Memphis firm [Conmat] would not be permitted to quote hardware in our State with the possible exception of some extremely northern counties of the State, and this only when Memphis architects and contractors were involved.
>
> (Talgo Dep. Exh. 21, Oct. 1963)

Two years later, Yale's vice-president, Leo Pantas, outlined for Capitol Hardware the territorial restraints Yale imposed on its Memphis account:

> Consequently, if a job is written in Yale specs in your area, there should be no interference from Conmat, since, as I said before, they are restricted to the City of Memphis in the sale of Yale goods.
>
> (Pantas Dep. Exh. 19, Jan. 1965)

Talgo conveyed similar territorial guarantees to Yale's Birmingham, Alabama account in 1963:

> Our assurances to you were that the Conmat Company would not bid Yale products in Alabama outside the general Huntsville market
>
> (Pantas Dep. Exh. 22, Nov. 1963)

C. Defendants allocated jobs and territories to maintain prices at non-competitive levels.

While conceding that dealers were restricted from bidding on existing masterkey systems or jobs outside their assigned territories, defendants have sought to explain these arrangements as necessary to ensure that their contract hardware dealers provided service to building owners.

(Wiley T. 211)

However, the documents written by defendants during the conspiracy belie the excuses they now advance for their restraints on competition. Defendants protected the original dealer on masterkey system extensions even though another dealer was located much nearer the job and previously serviced the job.

(E.g., Yale Dep. Exh. 36, September 1964;
Talgo Dep. Exh. 17, February 1963;
Pantas Dep. Exh. 13, May 1963)

For instance, Sargent refused to sell [illegible] Ohio dealer for a job in that area [illegible] Missouri dealer who helped write the specifications. The incident began with a complaint by Golterman & Sabo that it had written closed specifications for the Citizens Savings & Loan Ass'n. "and thought for sure that we had a no competition job." However, G & S was underbid by Hibbs Hardware Co.

(Rhynedance Dep. Exh. 23-E, April 1965)

Gray, Sargent's regional sales manager, alerted the keying department and sales force to stop any order from Hibbs. Gray wrote:

> The purpose of this letter is to advise you that we will be on the lookout for this order should it come in direct from Hibbs Hardware, and furthermore, we would appreciate your alerting any of your distributors not to accept the order from Hibbs in the event that they do try to place it within the territory.
>
> (Rhynedance Dep. Exh. 23-C, April 1965)

Gray informed G & S that the order from Hibbs had been returned and that Sargent would prevent Hibbs from "bootlegging" the hardware.

(Rhynedance Dep. Exh. 23-B, April 1965)

G & S responded:

> Bob, thank you for your letter of 26 April 1965, and for your help in stopping Hibbs Hardware Company from purchasing the contract hardware for this job.
>
> The buyer on this project at Bank Buildings & Equipment Corporation is aware that Hibbs is having difficulty in purchasing the Sargent material and told us that if he forsees any difficulty as far as Hibbs delaying the job, that he will cancel the order with Hibbs and give it to us. The buyer however is irritated because he knows that "someone in St. Louis" is trying to put the screws to Hibbs in the purchasing of Sargent material. At this point we are just hiding and watching and trying to offend as few as possible.
>
> (Rhynedance Dep. Exh. 23-A, April 1965)

In another incident previously noted (p. 82), Emhart sales officials acted to protect a Seattle, Washington, Corbin account from competition by a Russwin dealer in Alaska -- on a continuation of a masterkey system in Alaska. The Russwin dealer in Alaska had obtained the job even though he put on a "pretty hefty" mark-up of 50% over book cost, plus freight.

(Bauman Dep. Exhs. 32 and 33, August 1963;
O'Neill Dep. Exhs. 16 and 17, August 1963)

D. Defendants sought to protect the dealer who prepared the specifications for particular jobs.

The defendants also restrained competition on new work in order to protect the dealer who prepared the specifications.

(Gray Dep. Exhs. 19 and 22, October and July 1961;
Wheatley Dep. Exhs. 16-18, November 1965;
Wheatley Dep. Exh. 19, June 1966)

As Dave Oaks, salesman for Russwin and Sargent, explained:

Q Did Sargent have any policy with respect to distributors not bidding on jobs for which another distributor had prepared the specifications?

A The policy was that one distributor would honor the other distributor's specifications, or as a salesman, either a Russwin or Sargent salesman, if I wrote a specification, I usually would have one distributor, whom I so chose, put a bid on that job.

(Oaks Tr. 88)

VI. DEFENDANTS CONCEALED THEIR ANTITRUST VIOLATIONS BY SURREPTITIOUS CONDUCT AND MISREPRESENTATIONS TO PURCHASERS DURING THE CONSPIRATORIAL PERIOD AND CONTINUED THE SUPPRESSION OF THE FACTS DURING FEDERAL AND STATE INVESTIGATIONS

A. Defendants knew that their restrictions on competition were illegal and, accordingly, sought to conceal them.

As previously discussed, defendants were careful not to record their illegal arrangements in writing. Other examples of concealment include the following:

(1) When the local salesman for Corbin set up an agreement between dealers in Indiana that "they would not bid on each other's masterkeys," Parsons warned:

> In regard to your letter of October 22, I think it advisable that everything be kept on a verbal basis.
>
> (Bauman Dep. Exh. 77-B, November 1961)

(2) In a memorandum to "all midwestern salesmen," Rhynedance, Sargent sales manager, instructed "each of you to verbally request the cooperation of our distributor and locksmith accounts" to refuse an order that involved breaking a masterkey system.

(Rhynedance Dep. Exh. 21, November 1965)

(3) The regional sales managers for Ilco instructed dealers not to bid certain jobs, "using the excuse that they were too busy to handle it at the moment." */

(Materne Dep. Exh. 23, October 1966)

Moreover, defendants structured their agreements with dealers to achieve the illegal allocation of business, but avoid

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*/ Sometimes, even these precautions were not enough. As a salesman reported to Gray, he wanted to pull the line from a dealer, but there was a problem because the dealer had made "a tape of our telephone conversation" when Sargent previously required the dealer to withdraw a bid on a job reserved for a competing distributor.

(Gray Dep. Exh. 20, July 1964)

express reference to the restraints imposed upon dealers. As McCulloch explained to O'Neill, then western sales manager:

> Referring specifically to C&S and your comments regarding them not bidding on public works, existing RUSSWIN keys, RUSSWIN specs. or, in general, specified work, in talking with Sherm Carpenter and Bill Lichtenfels, we think you are being entirely too restrictive here. We realize what you are trying to do but, again, we have got to be realistic. Certainly there should be no problem regarding existing RUSSWIN keys as this is clearly spelled out in the franchise in the standard terminology in that we will assign existing masterkeys to the RUSSWIN dealers and the other dealers will not be permitted to bid on them.
>
> Certainly any account, that has a full line and that cannot bid on public works, is dangerous from the legal end. Of course, when you get into the public works category today, how far does this go? We would assume that probably 80 or 90% of the schools in any state have public money on them. I think we have got to be more definitive in how we set up a diversified account than restrictive. Again, you could not tell a dealer, that has a full line, complete catalog and price book, that he could not bid on any RUSSWIN spec. in his area. This would be a restraint of trade and again in a dangerous area. Even worse is to tell him that he cannot bid on any specified work in general in his area which could mean to lawyers that there was an arrangement among all his competitors for him not to bid on their work.
>
> Now how can we be more definitive than restrictive with C & S, for example? We can limit them to the class of work. For example, you can say they can bid on all work except schools, hospitals, etc.
>
> (Lichtenfels Dep. Exh. 43-A and 43-B, December 1964)

In large metropolitan areas where the defendants had more than one dealer, they "parcelled out existing masterkeys" and restricted the dealers to those jobs rather than telling each dealer the masterkey systems assigned to other dealers. In this connection, McCulloch instructed Lichtenfels:

> Referring to the matter of existing masterkeys that are going to be parcelled out to the contract dealers in New York City, upon further thought regarding this matter, I don't think we should send

> the entire list to each dealer showing them what their portion is and what the other dealers' portions are for if this list got into the hands of possibly a federal authority, it would look to them as though we were setting up situations where dealers could name their own profit which would be a collusive arrangement and could get us in trouble.
>
> I think that each distributor can be assigned their own masterkeys and that is all they should know about. If there are any questions about any other keys other than on their list, they should contact the New York Office and you can advise them by telephone. I think you can see what I'm getting at. If a list was parcelled out, broken down three ways with a stipulation by us that they could bid only on these, it would mean to most anyone that each group were going to be protected by us and they could charge any kind of profit they want. This would be dynamite, don't you agree? (Emphasis added)
>
> (Lichtenfels Dep. Exh. 10, Aug. 1961)

It is obvious from this letter, though, that dealers were prohibited from bidding on any other Russwin dealer's masterkey system, i.e., those not on their assigned list.

Indeed the illegal allocation of territories, jobs and customers was implemented by a general manner of operation, understood by dealers and enforced by defendants, which was not put in written franchises. McCulloch wrote to O'Neill that Sherman Carpenter, assistant general counsel, had advised that Emhart could enforce its restriction against bidding on an existing masterkey job by refusing orders "for a number of good reaons." McCulloch added:

> Sherm also points out even though we might not have a written agreement with a distributor, our general matter of operating is the same now as it always has been and will be in the future whether we have a signed agreement or not. Everyone knows the ground rules and common law many times stands up in court. In other words, Russwin has not condoned the selling of its contract items to non-Russwin dealers, even though the contract items by nature may be on a dealer's shelves and in stock.
>
> (O'Neill Dep. Exh. 10, Sep. 1964)

b. Defendants arranged for "complimentary" bids to give the appearance of competition.

We have earlier set forth instances of collusive bidding arranged by defendants. As stressed by McCulloch, these collusive bids were designed to have the "owner and architect believe that they were getting competitive bids from two sources."

(McCulloch Dep. Exh. 38, March 1962)

When federal or state law required several competitive bids, defendants (through their highest sales executives) made certain that a requisite number of "complimentary" bids were submitted at prices higher than the "favored" dealer. If purchasers became suspicious at the absence of competitive bids on masterkey work, defendants instructed their sales representatives to have other dealers, besides the protected one, submit quotes to give the illusion of competition. Some examples follow:

(1) The Florida State Purchasing Commission complained to Emhart in 1964 about its failure to secure quotations on Russwin hardware after numerous requests.

(Wiley Dep. Exh. 27, December 1964)

Thereafter, McCulloch instructed the Russwin southern sales manager, salesmen, and the protected dealer in Tallahassee that other Russwin dealers should bid on replacement materials. McCulloch warned that the complete refusal of dealers to bid "is where the protection of the existing key system policy we have can get us in trouble unless our dealers are realistic."*/

(Wiley Dep. Exh. 28, December 1964)

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*/ Other evidence shows that Emhart had allocated territories, customers and jobs in Florida, as well as the other states, throughout the conspiratorial period.

(E.g., McCulloch Dep. Exhs. 16, 17 and 20, May 1959;
McCulloch Dep. Exh. 18, August 1959;
McCulloch Dep. Exh. 24, November 1956;
Wiley Dep. Exh. 14, January 1961;
Wiley Dep. Exh. 15 and 16, Feb. 1961;
Wiley Dep. Exh. 18, July 1964;
Wiley Dep. Exh. 19, April 1966;
Bauman Dep. Exhs. 12-A and 12-B, July and August 1963)

(2) [illegible] for the Bulloch County Board of Education in Statesboro, Georgia complained that Russwin hardware "was not available to any hardware supplier other than a Russwin distributor." Southern sales manager, Glenn Wiley, stated, in response, that an authorized Russwin distributor is not "restricted in the sale of our products to other distributors of other manufacturers products nor is he restricted in selling direct to a school system or the representatives of the owners of other major type buildings."

(E-3453, June 1963)

Wiley's statement, of course, was a complete misrepresentation since Russwin prohibited their dealers from bootlegging contract hardware or bidding on extensions of masterkey systems.

(3) On a job for the Florida State Hospital in 1961, McCulloch and Wiley arranged for the local Russwin distributors to "cooperate" so that the State of Florida would not suspect "collusion and unfair bidding practices." By letter to W. S. Lee Company in Tallahassee, McCulloch reviewed a complaint that Baird Hardware had infringed upon Lee's masterkey system, and advised:

> In this case it's going to be quite difficult for us now, to refuse selling Baird Hardware these locks for this particular order, inasmuch as they are a bonafide Russwin distributor, and I am sure you will recognize the fact that the State of Florida doesn't recognize boundaries as far as distributorship of any product goes ... and we all might get ourselves into hot water if we force this issue on this order. The State might claim collusion and unfair bidding practices. I am sure that you don't want the finger pointed at you or Russwin.
>
> Another point is, Bill, that on State work it's pretty difficult for us, I feel, to stipulate that only one dealer in the State can bid on our products. The way it's done in most States ... the distributors work together and respect each others key systems.

> We have checked into the situation like this in the past with our lawyers and they say, legally, we cannot force a dealer to withdraw in his bid on Government or State Public work, when he's a bonafide Russwin dealer. I'm asking Glenn Wiley and Bill Fisher to see if they can't prevail upon Baird Hardware in this instance to buy the hardware from you, as I think this is the best way out of it, rather than have them withdraw their bid.
>
> (Wiley Dep. Exh. 15, February 1961)

A month later, Wiley reported to McCulloch:

> I believe that I have resolved the hassle between Baird Hdwe. and Lee over the phase order. I did Lee agree that we can do anything to involve our position with the state, and was unable to get Baird go ahead with the order. I impressed on him in the future that we would help coordinate these problems.
>
> (Wiley Dep. Exh. 16, Feb. 1961)

(4) Carl Bauman, Corbin's general sales manger, recognized the need to conceal the unlawful protection of masterkey systems in an infringement situation involving the University of Wisconsin. Bauman arranged to have the hardware sold through the protected distributor, rather than flatly refusing to sell to the infringing distributor, "due to the fact that if the University ever found out that there was no competition that might change their Master Key system."

(Bauman Dep. Exh. 71-A, June 1961)

C. Defendants falsely stated to building owners that there were no restrictions upon where or to whom contract hardware distributors could sell.

Defendants concealed their illegal practices from purchasers of their products. For example, when Murry Sell of New York was awarded the University of Maryland Medical Science Library job, Yale pursuant to its "usual policy" prevented Sell from securing Yale hardware through any "established contract hardware account" other than its Baltimore dealer, Anderson & Ireland. This "policy" forced Sell to buy from Anderson & Ireland -- at non-competitive prices -- not only the library job, but also Bancroft Hall at the Naval Academy.

Nonetheless, Yale wrote the Naval Academy that Yale accounts other than Anderson & Ireland were free to supply Sell:

> Murry Sell Hardware Company, Inc., can request a quotation from any authorized Yale Contract Hardware Distributor in the United States and are not restricted in any sense of the word to securing Yale Grand Master Keyed locks and cylinders from the Anderson & Ireland Co. of Baltimore.
>
> * * *
>
> ... Murry Sell Hardware Co., Inc. is not in any way obligated to accept [Anderson & Ireland's] this quotation and can secure additional quotations for the same materials from any Yale authorized Contract Hardware Distributor he may choose to select.
>
> (Talgo Dep. Exh. 67, August 1959)

D. When required by state law, co-conspirator distributors filed affidavits of non-collusion.

E. Continuation of concealment efforts during the federal civil actions and private treble cases.

The record reveals that the defendants have sought to suppress evidence and to fabricate a line of defense with the witnesses testifying under oath in these proceedings. On March 26, 1973, David Oaks testified as follows:

> Q Prior to this deposition have you had any conversations with any representatives of the defendants, that is, Russwin, Corbin, Yale, Sargent or Lockwood?
>
> A Yes.
>
> Q With whom?
>
> A With Mr. Fred Holfelder [sales manager] of Russwin.
>
> Q When did such conversation occur, or conversations?
>
> A After I received the supboena in the mail.
>
> Q Would you describe the circumstances leading up to your conversation with Mr. Holfelder....
>
> A Mr. Holfelder contacted me and indicated that Mr. Ed Cooney or Mr. Rick Reynolds [counsel for Emhart] may be calling me at my office to find out if I am going to be friend or foe....

Q What was your response to Mr. Holfelder?

A I told Mr. Holfelder, you know, that I was almost embarrassed by the question because I had no alternative but to tell the truth.

Q Did you state whether you were willing to talk to Mr. Reynolds or Mr. Cooney?

A Yes. I gave Mr. Holfelder my home phone number and indicated that they could contact me at home.

Q Did you have any subsequent conversation with Mr. Holfelder?

A Yes.... I indicated to Fred that I had not heard from Rick Reynolds or Ed Cooney and I was kind of worried about the deposition.

Q What did Mr. Holfelder state to you?

A He mentioned something to the effect that Mr. Reynolds was on vacation, or Mr. Cooney, I can't recall, and we just talked in general about the type of questions that might be asked, because apparently Mr. Holfelder had been deposed in a similar matter, or in this matter, I don't know.

Q What did Mr. Holfelder tell you with respect to the type of questions that would be asked?

A Well, he indicated that they would ask very specific questions, and unless I remembered specifically incidents or things that might have happened five or six or ten years ago, it is very difficult to remember those things.

I indicated to him that my memory is quite vivid of every instance that I have stated here.

Q Did Mr. Holfelder pose an example of the type of question you would be asked?

A Yes. He said the type of question they might ask of you would be, "Have you ever threatened to terminate a distributor for bootlegging or the breaking of a master key system?", and he also indicated in the same sentence, he says, "You know, both you and I know that we have never done that", and we both chuckled.

I indicated to Mr. Holfelder that he was talking to Dave Oaks, not some clown, that we have both done it and we both know it.

Q Did Mr. Holfelder ask whether any materials had been subpoenaed from you?

A Yes.

Q What was the substance of the conversation in that respect?

A Basically, the sequence of events was that I indicated to Mr. Holfelder that according to the subpoena, I was required to bring documents pertinent to master key systems and similar type documents, and Mr. Holfelder indicated that it might be to my best interest if I could lose some documents.

MR. BATES: May I have that answer again, please? I did not hear it.

BY THE WITNESS:

A He said that it might be to my best interest if I could get some documents lost in my files.

BY MR. FREEMAN:

Q Did Mr. Holfelder advise you that no one could really be expected to remember events that had occurred five or ten years ago?

A Yes.

* * *

Q Did you advise Mr. Holfelder that you intended to tell the truth at your deposition?

A Yes.

Q Were you subsequently contacted by either Mr. Reynolds or Mr. Cooney?

A No, sir.

(Oaks Tr. 114-118)

The entire pattern of responses in the depositions in these treble damage cases reflects a well-rehearsed party line to support a concocted defense that none of the companies had any general sales policies regarding masterkey systems and that territories, customers and jobs among distributors were not allocated.

Defense witnesses in the private treble damage cases have followed a pattern of evasion, denial and failure to recall. The first witness to be deposed, McCulloch, testified for two days denying any illegal conduct and suffering convenient failures of memory. When confronted with documents that exposed his answers as false, he claimed the privilege against self-incrimination to avoid any further questions.*/ The next three witnesses -- George

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*/ Prior to the federal investigation, defendants were sued by distributors who had been terminated for violation of their illegal sales policies. In one of the cases, Gardner Hardware Co. v. Emhart Corp., 4-66 Civ. 63 (D. Minn.), several employees falsely denied that Emhart had sought to enforce its restrictive sales policies or even that such sales policies existed. McCulloch was among the witnesses who gave such self-serving testimony.

Rhynedance, Carl Materne and Carl Bauman -- steadfastly denied the facts in the records. When asked about the documents, the witnesses failed to remember anything about them or ever having seen them. One witness, George Rhynedance, even refused to identify his own handwriting, despite the identical nature of a handwriting sample he gave at his deposition and the unique character of his left-handed writing.

Respectfully submitted,

LEE A. FREEMAN, JR.
Liaison Counsel for Plaintiffs

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DATED: December 6, 1974

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN RE: MASTER KEY ANTITRUST LITIGATION	M.D.L. DOCKET NO. \$%

DESIGNATION OF WITNESSES AND DEPOSITION TESTIMONY

Upon a trial of liability issues, plaintiffs intend to call the following witnesses:

Richard Cure (Distributor for Ilco)
Alfred E. Gray (Sargent)
William J. Healy (Sargent)
Thomas B. O'Neill (Russwin and Eaton)
George E. Wheatley (Ilco)
Glenn E. Wiley (Russwin)
Elihu A. Yale (Sargent)

Plaintiffs intend to introduce the deposition testimony of the following witnesses:

Carl S. Bauman (Corbin)
L. Curtis Booth (Corbin)
Richard H. Foley
William C. Hettling (Eaton)
Robert N. Hicks, Jr. (Ilco)
Edward H. McCulloch (Russwin)
David R. Oaks (Russwin and Sargent)

Louis F. Quadrelli (Eaton)

Roy G. Salaman (Sargent)

Sumner M. Sollitt

Harry G. Talgo (Eaton)

Richard W. Thompson (Sargent)

Robert H. Witt (Distributor for Russwin)

Myron Philip Falk (Ilco)

(Deposition taken in Cure & Company v. American Hardware Corp., No. 63-345 (S.D. Cal.))

In addition, plaintiffs intend to examine several additional witnesses by deposition prior to trial, including:

Louis Carr

Fred Hollfelder

Thomas Morris

Plaintiffs reserve the right to supplement and amend the foregoing lists of witnesses.

LEE A. FREEMAN, JR.

APPENDIX

IDENTIFICATION OF PERSONS MENTIONED IN SUMMARY OF EVIDENCE AND THEIR POSITIONS WITH DEFENDANTS DURING THE CONSPIRACY

EMHART CORPORATION (CORBIN & RUSSWIN)

Edward H. McCulloch	Russwin General Sales Manager; Russwin Vice-President - Sales
William J. Ziegenhein	Russwin Executive Vice-President
L. Curtis Booth	Corbin Vice-President
Carl Bauman	Corbin General Sales Manager
Thomas J. O'Neill	Russwin General Sales Manager; Russwin Vice-President - Sales
Geddes Parsons	Corbin General Sales Manager
Glenn Wiley	Russwin Southern Sales Manager
William C. Lichtenfels	Russwin General Sales Manager; Group Vice-President of Emhart
William Maher	Russwin Chicago Area Manager
Gene Deady	Russwin Midwest Sales Manager
Stu Force	Russwin Administrative Assistant
Dave Oaks	Salesman
Sherman Carpenter	Assistant General Counsel of Emhart
T. M. Ford	Legal Counsel of Emhart

ILCO CORPORATION

Sam Crissman	Vice-President - Sales
Earl Materne	National Sales Manager
George Wheatley	Contract Hardware Product Manager
Morris Falk	Salesman
George Newmier	Salesman

SARGENT & COMPANY

Herman R. Giese	President
J. B. (Bryer) Duff	Vice-President
Eli A. Yale	General Sales Manager; Vice-President - Sales
George H. Rhynedance	Midwestern Sales Manager
Roy G. Salaman	Western Sales Manager
A. G. Gray, Jr.	Eastern Sales Manager
R. W. Thompson	Southern Sales Manager
William Healy	Chicago Sales Manager
Sid McMaster	Head of Keying Department
Dave Oaks	Salesman

EATON CORPORATION (YALE & TOWNE)

Leo Pantas	Vice-President
Lou Quedenfeld	Regional Sales Manager
Harry Talgo	Regional Sales Manager for Yale; Marketing Manager for Contract Hardware; and Assistant General Sales Manager
William C. Hettling	Assistant General Sales Manager; Marketing Manager of Contract Hardware
James D. Young	General Sales Manager
Chuck Moody	Yale's Order Department
Bill McGreevy	Regional Sales Manager
Ken Lanyon	Regional Sales Manager
Hal Fallows	Yale Salesman
Fred Dunning	Salesman

EMHART CORPORATION (CORBIN & RUSSWIN)

W. C. Bierds	Emhart Price Supervisor
James Parker	Sales Representative
Whyte	Russwin Sales Manager

ILCO CORPORATION

John Meyer	Sales Representative

SARGENT & COMPANY

J. C. Elmblad	Salesman
Bert Schmidt	Salesman
James Stephens	Baltimore Salesman
Forbes Sargent	Salesman
Dave Winn	Salesman

EATON CORPORATION (YALE & TOWNE)

Walter Allen	President
Davenport Cleveland	Yale's Northeast Regional Sales Manager
Tom Dickensen	Yale's Baltimore Salesman
J. E. McGee	Yale's Supervisor of Contract Hardware
Thomas P. Pompa	Yale's Contract Service Supervisor
Puhek	Salesman
Bill Snyder	Yale Employee (reporting directly to Talgo)
John Tooher	Salesman
Tom Wemyss	Salesman
Bill Wolfe	Salesman
Les Groves	Yale Employee

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN RE: MASTER KEY ANTITRUST LITIGATION	M.D.L. Docket No. 45
CITY OF PHILADELPHIA, et al, Plaintiffs, vs EMHART CORPORATION, EATON CORPORATION, SARGENT & COMPANY and ILCO CORPORATION, Defendants.	CIVIL ACTION NO. 14233

COMPLAINT OF THE STATE OF MICHIGAN
AND ITS POLITICAL SUBDIVISIONS

Plaintiffs herein, by their attorney, Frank J. Kelley, Attorney General of Michigan, bring this civil action against the above-named defendants for injunctive relief and for treble damages due to defendants' violations of the antitrust laws of the United States and, demanding a jury trial pursuant to Rule 38 of the Federal Rules of Civil Procedure, allege as follows:

I.

JURISDICTION AND VENUE

1. This complaint is filed under Section 4 of the Clayton Act (15 U.S.C. §15) to recover damages which the plaintiffs and members of the class have sustained due to the violations by the defendants, as hereinafter alleged, of Section 1 of the Sherman ACt (15 U.S.C. §1).

2. Each of the defendants named in this complaint maintains an office, transacts business or is found within the District of Connecticut, and each of said corporate defendants is within the jurisdiction of this Court for the purpose of service. Many of the unlawful acts done pursuant to the combination and conspiracy hereinafter alleged have been performed within the District of Connecticut. The interstate trade and commerce described hereinafter is carried on, in part, within the District of Connecticut.

II.

PLAINTIFFS

3. The State of Michigan is one of the fifty sovereign states of the United States, and is proceeding here on behalf of itself, and its state departments, divisions and agencies, and on behalf of all counties, municipalities, school districts and political subdivisions organized under state authority which have, in the course of their operations purchased or paid for, directly or indirectly, builders hardware and master key systems as hereinafter defined, from one or more of the defendants during the period in suit, and have sustained damages as a result of the combination and conspiracy and violations of the antitrust laws herein alleged.

4. The State of Michigan, by its Attorney General, brings this action on behalf of the counties, municipalities, school districts and political subdivisions organized under state authority, as representative thereof as a class, pursuant to Rule 23 of the Federal Rules of Civil Procedure. The members of the class are so numerous as to make it impractical to bring them all before the Court. Each of such members of the class, including plaintiff state, has purchased or paid for, directly or indirectly, builders hardware and master key systems from one or more of the defendants during the period in suit, and has sustained damages as a result of

the combination and conspiracy and antitrust violations herein alleged. Except as to the amount of damages each member of the class has by itself sustained, all other questions of law and fact are common to the class. The rights of the members of the class, including plaintiff State, involve common questions of law and fact which predominate over any questions affecting individual plaintiffs. This class action is superior to other methods for the fair and efficient adjudication of the controversy herein described. The claims of the plaintiff State are typical of those to be asserted for the class. Plaintiff State will fairly and adequately represent and protect the interests of the class.

III.

DEFENDANTS

5. The following companies are herein made defendants. Each of the defendants is a major manufacturer of master key systems and hardware in the United States. The state of organization and principal place of business of each of the defendants are:

Named Defendant	State of Incorporation	Principal Place of Business
EATON CORPORATION (formerly Eaton Yale & Towne Inc.)	Ohio	Cleveland, Ohio
EMHART CORPORATION	Connecticut	Bloomfield, Conn.
ILCO CORPORATION (formerly doing business as Independent Lock Co.)	Massachusetts	Fitchberg, Mass.
SARGENT & COMPANY (Subsidiary of Walter Kidde & Company, Inc.)	Delaware	New Haven, Conn.

6. Various persons, firms and organizations, not made defendants herein, participated as co-conspirators with defendants and performed acts and made statements in furtherance of the matters complained of herein. Such co-conspirators include, but are not

limited to, defendants' distributors of master key systems and builders hardware, the American Society of Architectural Hardware Consultants, the Builders Hardware Manufacturers Association, and the National Builders Hardware Association.

IV.

DEFINITIONS

7. A "master key system" as used herein is a lock and key system designed specifically for a particular building or complex of buildings in accordance with a plan for limiting access to specified areas within such building. Normally, such a system provides a key for each door, each of which is keyed differently; one or a series of master keys which will lock and unlock a certain group of doors; one or a series of grand master keys which will lock and unlock two or more groups of doors; and a great grand master key which will lock and unlock all doors in the system.

8. (a) "Builders' hardware" is all hardware used in building construction, both finish and rough.

(b) "Architectural hardware" is hardware used for the function of a door. It is installed in schools, hospitals, dormitories, office buildings and other public buildings, but generally not in residential buildings.

(c) "Contract hardware" refers to architectural hardware sold through contract hardware distributors.

V.

NATURE OF TRADE AND COMMERCE

9. During the period of time complained of, each of the defendants was engaged in the manufacture and sale of builders hardware and master key systems and hardware, and each sold and shipped substantial quantities of master key systems and hardware in

interstate commerce. Eaton has approximately 200 distributors; Emhart has approximately 900 distributors; Ilco has approximately 150 distributors; and Sargent has approximately 175 distributors located throughout the United States. Builders hardware and master key systems manufactured by Emhart are sold by its Russwin and P & F Corbin sales divisions under the brand names of "Russwin" and "Corbin," to distributors who represent either, but not both of said sales divisions. Defendants' distributors purchase master key systems and hardware from defendants and resell them for use in hospitals, schools, colleges and other public buildings. Frequently, the owner or architect for a new building will request that one of the defendants' distributors prepare specifications for a master key system to be installed in the new building. These specifications are usually prepared without charge and generally specify the installation of a master key system manufactured by one of the defendants.

10. There is a continuous flow in interstate commerce of the hardware used in master key systems from Eaton's plant in New York (and now North Carolina), Emhart's plant in Connecticut, Ilco's plant in Massachusetts and Sargent's plant in Connecticut to distributors located in other states. For the years 1963 to 1966, Emhart's sales of contract hardware exceeded $109,750,000; Sargent's sales of contract hardware exceeded $56,000,000; Ilco's sales of contract hardware exceeded $15,000,000 and Eaton's sales of contract hardware exceeded $42,000,000.

VI.

OFFENSES CHARGED

11. Since at least 1965 and continuing thereafter to the date of the filing of this complaint, the defendants and co-conspirators have engaged in an unlawful combination and conspiracy in restraint of the aforesaid interstate trade and commerce, in

violation of Section 1 of the Sherman Act.

12. The unlawful combination and conspiracy consists of a continuing agreement, understanding and concert of action among the defendants and between defendants and their co-conspirator distributors, the substantial terms of which have been and are:

(a) To fix, maintain and stabilize prices of contract hardware and to submit rigged, collusive and non-competitive bids on contract hardware and master key systems;

(b) To divide and allocate among defendants and their distributors the sales of contract hardware and master key systems;

(c) That co-conspirator distributors will not sell contract hardware outside of the territories allocated to them by defendants;

(d) That co-conspirator distributors will not compete on jobs where another distributor has written the specifications for a master key system;

(e) That co-conspirator distributors will not bid on or sell contract hardware for proposed extensions to master key systems of a different manufacturer than they represent, or when the original master key system was sold by another distributor;

(f) That defendants and their respective co-conspirator distributors will not compete against any distributor of another defendant on extensions to a master key system sold by such distributor;

(g) That co-conspirator distributors would deal exclusively in the contract hardware of one defendant; and

(h) To suppress and eliminate competition between defendants and their co-conspirator distributors in the sale of contract hardware.

13. For the purpose of effectuating and carrying out the aforesaid unlawful combination and conspiracy, defendants and their co-conspirators have done the things which they conspired and agreed to do, and, more particularly, have cooperated in the policing and enforcing of the conspiracy.

14. The acts charged in this complaint to have been done were done by the officers, agents, employees or representatives of each defendant while actively engaged in the management, direction or control of its affairs, and acting on its behalf within the scope of their employment or agency.

VII.

EFFECTS OF THE COMBINATION AND CONSPIRACY

15. The aforesaid combination and conspiracy has had, among others, the following effects:

(a) Prices of contract hardware have been fixed, maintained and stabilized at high, artificial and non-competitive levels;

(b) Competition among defendants and among their distributors in the sale of contract hardware, has been suppressed and eliminated; and

(c) Purchasers of contract hardware for installation in new buildings, and extensions thereto, have been deprived of the opportunity of obtaining such products in an unrestricted market, and of the benefit of free and open competition in the sale of contract hardware.

VIII.

FRAUDULENT CONCEALMENT AND TOLLING OF THE STATUTE OF LIMITATIONS

16. At all times relevant hereto, plaintiff and members of the class it represents had no knowledge of the violations of the antitrust laws alleged herein or of any facts which might have

led to the discovery thereof. Plaintiff and members of the class it represents did not become aware of the unlawful conduct alleged herein prior to the institution of proceedings by the United States Government against the defendants on July 11, 1969. Plaintiff State could not have uncovered the conspiracy at an earlier date by the exercise of due diligence inasmuch as the unlawful conspiracy was fraudulently concealed by defendants who resorted to secrecy to avoid detection of the conspiracy.

17. On July 11, 1969, the United States of America instituted certain Civil Actions Nos. 13261-13264 in the United States District Court for the District of Connecticut against the defendants named herein. This complaint is based, in part, upon matters alleged in the Government proceedings, the pendency of which has had the effect of suspending the running of the statute of limitations, as provided by Section 5(b) of the Clayton Act, Title 15 U.S.C. §16(b).

18. The State of Michigan, its departments, divisions and agencies, and the municipalities, counties, school districts, public hospitals, political subdivisions and tax supported institutions of the State of Michigan, are included within the definition of the class action approved in City of Philadelphia v Emhart Corporation, 50 F.R.D. 232 (E.D. Pa. 1970). The pendency of that class action has suspended the running of the statute of limitations with respect to the violations charged by the State of Michigan in this complaint.

IX.

INJURY TO PLAINTIFFS

19. During and throughout the period of the aforesaid conspiracy, plaintiff and the members of the class it represents, purchased, directly or indirectly, substantial quantities of contract

hardware from defendants. By reason of defendants' illegal conduct, plaintiff and each member of the class it represents were compelled to pay and have paid substantially higher prices for such contract hardware than they would have paid had defendants' combination and conspiracy not existed.

20. As a result of defendants' illegal combination and conspiracy, plaintiff and each member of the class it represents, have sustained substantial loss and damage in their property in an amount which is presently undetermined. When such amount has been ascertained, plaintiff and each member of the class it represents will seek leave of court to amend this complaint to insert said amount herein.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays:

A. That the defendants and each of them be required to answer or otherwise plead to this complaint within the time fixed by the rules of this Court;

B. That the Court adjudge and decree that the aforesaid combination and conspiracy, and the acts done in pursuance thereof, were and are in unlawful restraint of interstate trade and commerce, in violation of Section 1 of the Sherman Act;

C. That the Court determine, as provided by Rule 23 of the Federal Rules of Civil Procedure, that this action is a proper class action and that plaintiff State is a proper class representative, and that the best practicable notice of this action be given to each member of the class represented by plaintiff in this action;

D. That plaintiff and each member of the class represented herein recover from defendants threefold the damages determined to have been sustained, and that joint and several judgments in favor

of plaintiff and each and every member of the class, respectively, be entered herein against the defendants and each of them;

E. That the defendants be enjoined from continuing the combination and conspiracy herein alleged, and from entering into any combination, conspiracy, agreement, understanding or concert of action having similar purposes or effects;

F. That plaintiff and each member of the class represented herein recover from defendants the cost of this suit and reasonable attorneys' fees, the amounts to be fixed by the Court as is provided in Section 4 of the Clayton Act, Title 15 U.S.C. §15; and

G. That plaintiff and each member of the class represented herein have such other, further and different relief as the nature of this case may require or to the Court shall seem justified.

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Dated: December 9, 1974

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN RE:	M.D.L. DOCKET NO. 45
MASTER KEY ANTITRUST LITIGATION	ALL CASES

DEFENDANTS' MEMORANDUM IN OPPOSITION TO PLAINTIFFS' RULE 42 MOTION

I. PRELIMINARY STATEMENT.

Plaintiffs have moved, under Rule 42, Fed. R. Civ. P., to consolidate for trial in this district all 19 of the cases [illegible] in this litigation for the purpose of separating what plaintiffs describe as the "liability" issues. Plaintiffs assert that this approach will speed the ultimate disposition of these cases.

Defendants share plaintiffs' desire to facilitate the disposition of these cases. Defendants cannot, however, acquiesce in the trial procedure suggested by plaintiffs. Plaintiffs' proposal purports to expedite this litigation but fails to heed the substantive safeguards of the antitrust law or the procedural safeguards inherent in the defendants' Seventh Amendment right to jury trial. Specifically, it seeks to circumvent both the requirement that in order for a private plaintiff to recover in a treble damage action, he must establish not only a violation of

the statute, but an injury directly traceable to that violation, Burnham Chemical Co. v. Borax Consolidated, 170 F.2d 569 (9th Cir. 1948), cert. denied 336 U.S. 924 (1949); Al Barnett & Son, Inc. v. Outboard Marine Corp., 5 Trade Reg. Rep. (1974 Trade Cas.) ¶75,243 (D. Del. 1974); and defendants' right to have both the liability and damage issues determined by the same jury. United Air Lines v. Wiener, 286 F.2d 302 (9th Cir. 1961), cert. denied 366 U.S. 924 (1961). Rule 42* cannot be employed to deprive defendants of these protections as is made clear by the Enabling Act for the Federal Rules of Civil Procedure, 28 U.S.C. §2072:

> "Such rules shall not abridge, enlarge or modify any substantive right and shall preserve the right of trial by jury as at common law and as declared by the Seventh Amendment to the Constitution."

And as will subsequently be shown, proper standards of proof of the alleged antitrust violations prevent the realization of the apparent economies upon which plaintiffs ground their motion.

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*Fed. R. Civ. P. 42(b) provides:

> "(b) Separate Trials. The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial...of any separate issue..., always preserving inviolate the right of trial by jury as declared by the Seventh Amendment to the Constitution or as given by a statute of the United States."

Pending before the Court is a motion by Lee A. Freeman, Jr. as liaison counsel for plaintiffs pursuant to Rule 42(b) to separate what are characterized as the liability and damage issues in certain of the cases. As liaison counsel for plaintiffs Mr. Freeman has also filed a Memorandum in Support of Motion to Separate Liability and Damage Issues dated November 15, 1974, and Suggestions Regarding Procedures for Trial dated April 23, 1974, both addressed to the separation issue.

At the hearing on September 30, 1974 on certain motions the Court requested defendants to file memoranda directed to the separation issue and also to file their suggestions for trial.

No counsel other than Mr. Freeman appears to have joined in submitting his Memorandum and Suggestions for Trial, but there are pages appended to each naming counsel for certain public body plaintiffs. While the matter should ultimately be clarified, we are assuming that those counsel do in fact join in submitting the papers in question. The public body plaintiffs so joining are as follows:

	District where pending
California	C.D. Cal.
Connecticut	Conn. (Transferred from N.D. Ill. under §1404(a))
Illinois	N.D. Ill.

	District where pending
Indiana	Conn. (Transferred from N.D. Ill. under §1404(a))
Kansas	Kansas
Michigan	Intervened) in City of Phila. case, ") E.D. Pa.
Minnesota	Intervened) in City of Phila. case, ") E.D. Pa.
City of New York	S.D. N.Y.
New Jersey	New Jersey
New York	S.D. N.Y.
Pennsylvania	Conn. (Transferred from N.D. Ill. under §1404(a))
Ohio	S.D. Ohio
West Virginia	N.D. Ill.
Wisconsin	Intervened) in City of Phila. case, ") E.D. Pa.

While the name of H. Laddie Montague appears as co-liaison counsel for plaintiffs, he is not identified as representing the City of Philadelphia, for which he is counsel of record. Other public-body plaintiffs who do not appear to have joined in the memoranda are the State of Florida and the State of Michigan, a recent intervenor. The non-public-body plaintiffs, Amherst

Leasing Co. et al, and Sturdy Homes, Inc. et al. are not referred to.*

What Mr. Freeman has styled a motion to separate liability and damage issues really subsumes several motions, either explicity or implicity.

First, the Freeman memorandum of November 15, 1974, asserts that "all pending cases should be consolidated for purposes of the liability trial." There is then reference to possible authority for such action under 28 U.S.C. §1404(a), but there is no motion pending, so far as we know, to transfer all cases to the District of Connecticut under §1404(a).

Second, the Freeman memorandum assumes not only that all cases have been so transferred, but also that it would be appropriate that the cases be consolidated for trial under Rule 42(a) of the Federal Rules of Civil Procedure. That Rule provides:

> (a) Consolidation. When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

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*The case of another group of non-public plaintiffs, Bermar Construction Corp. et al. (S.D. Fla.) has been dismissed conditionally upon payment of certain costs.

It should be observed that consolidation for trial under Rule 42(a) can only be ordered in respect of "actions...pending before the court." The only actions "pending" before this Court are those in which the plaintiffs are the States of Connecticut, Indiana and Pennsylvania. All other cases referred to above have been transferred to the District of Connecticut only for "coordinated or consolidated pretrial proceedings" under 28 U.S.C. §1407.

Therefore, even if there were any merit to the Freeman position, it is premature for the Court to consider a motion under Rule 42(b) until--

a) A determination is made whether any action before the Court either for all purposes or for pretrial proceedings under §1407 should proceed as a class action; and

b) A motion is presented to the Court in due course that actions pending in other districts be transferred to Connecticut for all purposes under §1404(a) and such a motion is granted; and

c) A motion is presented to the Court in due course that the actions so transferred under §1404(a) should be consolidated for trial under Rule 42(a) and such motion is granted.

As to the class action question, the defendants have filed a Motion for Denial of Class Certification and a Memorandum in support thereof.

As to the transfer question, there is no motion pending before the court. Moreover, there is no indication from the separate plaintiffs as to their individual desires in this regard, and depending upon the trial procedure which may ultimately be adopted, transfer and consolidation may be both unnecessary and undesirable. Considering all of the above, it is unnecessary at this time fully to address that issue, in light of the present posture of the cases.

II. ARGUMENT

A. PLAINTIFFS' PROPOSAL VIOLATES THE SUBSTANTIVE STANDARDS OF THE ANTITRUST LAWS.

1. The Substantive Standards of the Antitrust Laws: The Causation of "Damages" Requirement.

The right of a private plaintiff to recover damages is conferred by Section 4 of the Clayton Act. That statute provides that:

> "Any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor...and shall recover threefold the damages by him sustained...." 15 U.S.C. 15. (emphasis supplied)

As the statute makes clear, there are three elements necessary to recover. First, there must be a violation -- "anything forbidden in the antitrust laws." Second, the plaintiff must have suffered some loss -- "damages by him sustained." And, third, there must be a causal connection between the two -- "injured...by reason of."

While each of these elements is equally essential to recovery, courts have repeatedly reaffirmed the need to establish causation or "impact" as a prerequisite to monetary relief. In so doing, the courts have made it clear that "in a treble damage action..., the finding of an antitrust violation does not result in liability." Al Barnett & Son, Inc. v. Outboard Marine Corp., supra, at 97,262; Turner Glass Corp. v. Hartford Empire Co., 173 F.2d 49 (7th Cir. 1949), cert. denied 338 U.S. 830 (1949); Burnham Chemical Co. v. Borax Consolidated, supra. Rather, as the Court expressly noted in Locker v. American Tobacco Co., 218 F. 447 (2nd Cir. 1914):

> "It matters not that certain of the defendants violated the provisions of The Sherman Act unless it be proved that such acts have injured the plaintiffs and caused them damages which can be recovered..." at 448.

In defining the type of relationship which must be established between the plaintiffs' alleged injury and the asserted antitrust violations, courts have required that the impact be direct and not incidental. The causal connection necessary to allow recovery must be:

> "sufficient for the trier of fact to establish that the violation was a 'material cause' of or a 'substantial factor' in the occurrence of damage." Billy Baxter, Inc. v. Coca-Cola Co., 431 F.2d 183, 187 (2d Cir. 1970), cert. denied 401 U.S. 923 (1971).

See also Vandervelde v. Put & Call Brokers & Dealers Association, 344 F. Supp. 118, 145 (S.D.N.Y. 1972). Under this standard, losses or "overcharges" caused by factors other than a violation of the law cannot be recovered. Atlas Building Products Co. v. Diamond Block & Gravel Co., 269 F.2d 950 (10th Cir. 1959), cert. denied 363 U.S. 843 (1960). Thus, each factor other than the antitrust violation which may have caused the alleged damage must be examined to determine whether it, rather than the violation, caused the injury.

In sum, therefore, before plaintiffs can recover damages they must establish that a particular antitrust violation was a "material cause" of or a "substantial factor" in a particular overcharge and that other factors were not responsible for the injury.

2. In this Action, Proof of Impact Must Proceed on a Transactional Basis.

In order to satisfy the impact requirement in this litigation analysis must proceed on a transaction-by-transaction basis. The need for such an approach results from the complexity of plaintiffs' allegations and the individual fact patterns presented by both plaintiffs and defendants.

The considerations affecting the resolution of the pass-on issues reflect the need for transactional inquiry. The pass-on issues arise in this litigation because no public entity plaintiff or class of plaintiffs purchases hardware directly from a defendant or distributor of defendant, and even private plaintiffs, although perhaps direct purchasers, must

establish that the alleged overcharges were borne by them before gaining recovery. As the Court expressly recognized in denying Defendants' Motion for Summary Judgment based on this issue:

> "An important issue of fact--whether a 'cost plus' or analogous fixed markup arrangement exists between contractors and buyers with respect to builders' hardware is a matter of great dispute." 1973-2 Trade Cas. ¶74,680, p. 94,902 (D. Conn. 1973).

And as the court in Boshes v. General Motors Corp., 1973-1 Trade Cas. ¶74,483 (N.D. Ill. 1973) took great care in making clear, even if antitrust violations resulting in increased prices are established,

> "[P]laintiffs would still have to prove that retail dealers passed on the 'overcharge' to them." p. 94,150.

The question of whether a "cost plus" or analogous fixed markup arrangement exists must be separately determined for each transaction. The chain of distribution for builders hardware consists of hundreds of different contractors with a variety of purchasing practices working with hundreds of different distributors under a wide range of market conditions. Each of these factors and the interaction between the different factors affect the determination of whether any alleged overcharge was passed-on from the manufacturer through the distributor to the

builder-owner, in the case of private plaintiffs, and on through the contractor to the owner, in the case of public entity plaintiffs. Proper evaluation of these factors and their interaction requires that analysis proceed on a transaction-by-transaction basis.

The detailed nature of such proof can be seen by tracing the steps in plaintiffs' case which must be followed assuming that a violation is established. First, in order to prove impact from a restriction on a distributor, plaintiff must show that that distributor in that instance (a) would have bid and (b) would have bid at a lower price. Second, to prove damages, plaintiff must next show, as to each job, the amount by which the restricted distributor's bid would have been lower than the winning bid. Since the distributors who have testified by deposition or affidavit agree that each job is analyzed and bid separately, the transactional basis of the inquiry is clear.

The need for transactional analysis of the impact question becomes even more obvious when the various purchasing alternatives available to a plaintiff-owner are recognized. Master key extensions provide an excellent example of the various alternatives.*

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*There are, however, several others, including quality of hardware, product mix, e.g. whether all of one manufacture, and restrictive keying arrangements.

A master key extension involves the supplying of additional locks which are keyed so that both the original locks and the new locks can be opened by the same master key. Whenever an individual or institution wishes to add to an existing building or construct a new building in an existing complex, "it is the owner who decides whether or not a master key system already established in a building will be continued..." Mid-America Builders Supply, Inc. v. Sargent & Co., Docket No. 73 C 1088, (N.D. Ill. September 24, 1974). The owner of the building has a number of alternatives available in making his decision, each of which significantly affects the competition for the locks. If the owner decides to continue a particular master key system, competition in the supply of locks is limited to the brand of system to be continued. If, on the other hand, the owner decides not to continue a master key system, the brands which can be supplied are limited only by the quality standards of the specifications.

Plaintiffs' case relies heavily upon two distinct allegations pertaining to situations involving master key extensions. First, plaintiffs allege that defendants conspired with each other to prohibit their distributors from bidding on the master key systems of other manufacturers. Second, plaintiffs allege that the manufacturers of master key systems agreed with their distributors to allocate such systems among them. Assuming arguendo that plaintiffs succeed in proving either one or both of these allegations,

they must also establish that the violation proved is a "material cause" of any injury suffered by them. With regard to the alleged horizontal agreement among defendants, since the plaintiff-owner is responsible for the decision to continue a master key system, the jury must decide whether the defendants' supposed conspiracy or the limitation imposed by each plaintiff-owner is responsible for the alleged overcharge. Likewise, with regard to the alleged vertical agreements to allocate key systems among distributors, to the extent that the contractor or owner selected a particular distributor for reasons other than the price bid by that distributor, serious questions arise as to whether the contractor or owner's choice, as opposed to the alleged violation, gave rise to the supposedly inflated price. For example, the named plaintiffs in Amherst Leasing continued to buy their hardware from Atlantic Hardware, even when the same hardware was offered at a lower price by another distributor in the same city.

The procurement practices of governmental entities with regard to master key systems are subject to considerable variation. In Tennessee and Mississippi, for example, a policy was in effect during the periods complained of in these actions which precluded the specifications (which prescribe the materials to be supplied) from requiring extensions of existing master key systems. New York, on the other hand, sought to continue its master key systems by

arranging to have the various lock manufacturers interchange cylinders, thereby allowing each manufacturer to extend the master key of another manufacturer. California adopted a third approach which specifically required that on certain projects master key systems had to be extended and no substitutions were to be allowed. In fact, on some new projects, the University of California required that the projects be keyed to any one of three existing master key systems. The specification for State of Oregon buildings was split between locks and all other hardware, in order to maintain the benefits of existing master key systems, while at the same time obtaining the widest possible competition. And the specification for the State of Pennsylvania General State Authority building program was a closed specification restricted to two manufacturers, Best and Falcon, thus precluding all of the deferdants from bidding on such state work. Each of these variations poses unique questions as to the existence of any restrictive practices under such conditions and the impact of any such practices which may have existed. In so doing the number of individual issues is further compounded. In addition, independent of the owner's conduct, regional and local variations in market conditions and distribution patterns significantly affect the impact of any supposed violations. A restriction on the master key systems on which a distributor may bid is of much more consequence in New York City than in Boise, Idaho, where the limited demand and the greater distances involved serve to restrict the

number of distributors an area can support and, consequently, the number of bids submitted on a given project. The resolution of both horizontal and vertical issues, therefore, requires a detailed examination of the particular circumstances surrounding each transaction.*

There is no national market. Rather, there are several markets in which different manufacturers compete. There are no typical distributors. Rather there are hundreds of different distributors working with hundreds of different contractors under a variety of conditions throughout the country. There is no uniform type of purchase. Rather there are original installations and there are extensions, ranging in cost from a few dollars to thousands of dollars. There is no typical purchaser whose methods are reflective of all others. Rather there are thousands of different purchasers with different needs, desires and procurement practices.

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*Transactional analysis serves not only to provide better insight into the alleged impact of a putative violation by defendants but may also serve to disprove the very existence of such violations. Each transaction is both a product of and an influence on its market environment. To the extent that plaintiff-owners decide to extend master key systems, they are not only foreclosing any possible impact on them of any alleged conspiracy to prohibit bids on other manufacturers' systems, they are also creating a market environment in which it no longer benefits a distributor to bid on another manufacturer's system. By so doing an alternative explanation of the conduct which plaintiffs allege to be representative of anticompetitive activities becomes apparent. The transactional analysis necessary to prove impact, therefore, serves the additional purpose of providing for a better understanding of the market conditions and effect of such conditions on the acts of defendants.

The issues described above cannot be segregated from whatever common issues might exist by separating the liability and damage aspects of this case. Both aspects of a liability showing, violation and impact, require a detailed analysis of the individual issues noted earlier. Proof of a violation in one situation cannot be used to impute to defendants similar violations in other situations. Evidence of conduct in one region cannot be viewed as descriptive of the conditions and patterns in another area. Similarly, assuming that such abstract violations could be shown, plaintiffs would still be required to show that such violations were the material cause of their injury.

The necessity of a transactional inquiry is not avoided by the fact that these actions are filed on behalf of plaintiffs seeking to represent classes of other entities similarly situated. On the contrary, the requirement of proof of impact and the consequent need for transactional analysis apply equally to each class member. In the Barnett case, supra, the court, in focusing on the question of impact recognized that:

> "the fact of damage to a particular plaintiff is an essential element of his cause of action" at 97,629,

and concluded that:

> "Therefore, each of the named plaintiffs and the purported members of the class must individually prove that each in fact has been injured in his business or property...." Id.

This analysis applies with equal force to the present facts. The following examples of alleged violations illustrate the necessity of analyzing each transaction in terms of liability, impact and damages.

Plaintiffs contend that Yale declined to bid on jobs specified as additions to a competing manufacturer's master key system. As evidence of this practice they refer to a letter from Leo Pantas to John Roemer concerning Carthage College. (Plaintiffs' Designation of Evidence p. 19). Pantas, Yale's former Vice President, testified that Yale expended considerable effort trying to sell hardware for Carthage College. Yale was unable to do this, not because of its own policy, but because the specification prepared by the architect selected by the college required the use of Sargent hardware. Yale's inability to sell the Carthage College job did not result from a refusal to bid as plaintiffs claim, but from the architect's refusal to sanction the use of Yale hardware. As Mr. Pantas pointed out, Yale never "bid" jobs; Yale sold hardware to its authorized distributors. (Pantas deposition pp. 48-50).

Plaintiffs contend that Yale prevented Hellring Bros., Inc. from buying locks to extend a master key system at the American Cyanamid plant in Princeton, New Jersey, and that Yale required locks for that job to be purchased through New Jersey Hardware. (Plaintiffs' Designation of Evidence p. 50). The key records show that the American Cyanamid system was [illegible] who was a Yale locksmith account.

If Yale could exercise the control over its sale of master keys that plaintiffs contend, Hellring would not have been allowed to buy hardware for the American Cyanamid job since Hellring was not an authorized Yale contract dealer.

Plaintiffs allege in their Designation of Evidence at p. 77 that collusive bidding on a job at Arkansas A,M&N College was evidenced by a memo to E. H. McCulloch reporting that a "complimentary" bid was arranged on the job to protect an Emhart dealer. Documentation on the actual transaction shows, however, that the dealer who was to submit the "complimentary" bid did in fact order and receive material for the job.

Plaintiffs allege in their Designation of Evidence at p. 95 that an Emhart dealer, Binswanger & Co. of Memphis Tennessee, was told that materials would not be shipped for the Sheffield Housing Project in Sheffield, Alabama because the job was located outside the dealer's territory. An examination of the shipping orders involved in the transaction in fact reveals that Emhart shipped the materials to

"G.E. Bass Const. Co., c/o Housing Project 68-4, Sheffield, Ala. charge[d] to Binswanger & Co. P.O. Box 167, Memphis, Tenn." Thus, a proper determination of impact, essential to the determination of liability, involves an analysis of each transaction and each transaction raises its own issues.

Neither may the need for transactional inquiry be curtailed by limiting it to questions of pass-on or master key extensions. These two issues are representative of, rather than distinct from, the other issues raised by plaintiffs' claims. For example, plaintiffs' allegation that defendants conspired both horizontally and vertically to restrict competition on original installations by agreeing to have their distributors honor the specifications prepared by another distributor raises a host of considerations, which also require analysis of the details and circumstances of each transaction. For example, there are claims that for a period certain distributors in Los Angeles "honored" each others' specifications, whereas in other areas of the country the files are replete with instances where the distributor who prepared the specification did not get the job. Still other documents suggest that on occasion the distributors themselves - quite apart from any involvement on the part of the manufacturers - agreed among themselves as to which distributor would submit the winning bid.

3. Plaintiffs' Proposal Subverts the Requirement that Impact be Shown before Recovery is Allowed.

Plaintiffs' suggestion that the liability issues be separated and tried prior to the determination of damages fails to recognize the nature of the requirement of a causal connection between defendants' alleged antitrust violations and plaintiffs' supposed damages. Plaintiffs confuse "impact" or the "fact of damage" with the standard used to measure damage. In so doing, plaintiffs overlook the fact that impact is a question of causation. Only after causation has been established may the analysis proceed to the question of measure of damages. Plaintiffs' proposal shortcuts this analysis by jumping directly from proof of violation to the determination of the measure of damages.

In their "Suggestions Regarding Procedures for Trial", plaintiffs discuss what they characterize as "the effect or impact of the illegal conduct upon prices." That section of their proposal states:

> "Once it has been shown that defendants illegally agreed and acted together to fix prices and eliminate competition on master-key jobs, the jury may then determine the extent that prices charged to public agencies and other building owners were raised and what price levels would have prevailed in a freely competitive market."* (emphasis added) at pp. 6-7.

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*It requires no further discussion to note that there is no national market, and that the market in Boise, Idaho is perforce a different market than that in New York City.

This statement reveals the shortcoming in plaintiffs' purported analysis of impact. Nowhere is there any mention of a causative link between the defendants' conduct and plaintiffs' damage. Rather, the focus is placed on the measure of damages, viz. the difference in "price levels." This approach does not establish a causative connection. It merely assumes a causal relationship by asking "what price levels would have prevailed" and proceeds to concentrate on the measure of damages. The requirement that an antitrust violation be a "material cause" of plaintiffs' damage cannot be satisfied by so facile an assumption.

Plaintiffs' explanation of the manner in which the comparative price levels are to be developed further reveals the inadequacy of the suggested approach. For example, plaintiffs suggest that "the larger percentage mark-ups by distributors on protected masterkey jobs may be compared with mark-ups on competitive work." (p. 7). As noted above, the owner determines whether or not a master key system is to be extended. A decision to extend a system inherently restricts competition. That decision, rather than any acts of the defendants may, therefore, be the "material cause" of "the larger percentage mark-ups" referred to by plaintiffs. Stated another way, the fact that the owner elected to extend a lock system may have been the reason the distributor charged a higher price. To prove impact, plaintiffs in each instance would need to show that the supposed higher price was

caused by some conspiracy, rather than being the natural response of a distributor to the owner's election to reduce competition by extending the master key system. Plaintiffs' analysis overlooks such alternative factors entirely. Instead, under the plaintiffs' proposal the inquiry is based on the assumption that any and all differences in price levels are solely attributable to antitrust violations and the question is limited to the measure of such damages.

What the plaintiffs' proposal is saying is that by some process (not explained) it will be possible for the trier to determine in the "liability" trial some uniform impact of price increase on all public-body plaintiffs without regard to--

a) Whether the alleged violation was horizontal price fixing at the manufacturers' level or vertical restrictions as to customers and territories at the distributors' level;

b) What brands of hardware were specified for the construction job;

c) Whether any of the brands specified or supplied were those manufactured by a defendant;

d) The mix of hardware products and the relative values thereof in the hardware package;

e) The number and character of the bids for the hardware by distributors and the location of the distributors from which bids were sought or received;

f) The individual pricing decisions of distributors with respect to each job;

g) The presence or absence of discounts granted by one or more manufacturers;

h) The methods used by the general contractor in pricing the job, and how that was or was not affected by the cost of the hardware;

i) The intangible considerations involved in the owner's selection of a contractor and in turn the contractor's award of the hardware contract (e.g. good service, friendship, political considerations);

j) Whether the owner decided to extend an existing master key system;

k) The time when the plaintiff or plaintiffs purchased the building in relation to the time when the alleged violations were said to have taken place; and

l) The existence or not of a cost-plus or analogous fixed markup arrangement.

In essence then the plaintiffs' proposal would have the Court exclude such considerations from the trier as a matter of law, so that the trial on the "liability" issue could proceed in accordance with the plaintiffs' script. The Court has already determined in these cases that it would not determine as a matter of law that the plaintiffs could not prove damages because of their remoteness in the chain of distribution. Ruling on Motion for Summary Judgment, dated August 22, 1973. Likewise, it would not be proper now for the Court to rule as a matter of law that the defendants could not analyze each transaction alleged to have caused injury to the plaintiffs, which is in essence what the plaintiffs are suggesting.

Plaintiffs' confusion of the issues of impact or fact of damage with the measure of damages can be traced in part to their misapplication of Ohio Valley Electric Corp. v. General Electric Co., 244 F. Supp. 914 (S.D.N.Y. 1965) to the present litigation. Plaintiffs rely upon Ohio Valley to support their proposition that impact can be shown by establishing the difference between the price actually charged and the price which would have been charged had there been no conspiracy. See p. 10, "Plaintiffs' Suggestions Regarding Procedures for Trial". This reliance reveals a failure to note the critical distinctions between a horizontal price fix case and the more complex horizontal and vertical allegations in the present litigation.

Plaintiff in Ohio Valley sought to recover overcharges allegedly attributable to defendants' horizontal price-fixing conspiracy. Defendants there sought to convince the court of the significance of the distinction between impact or fact of damage and amount of damage. In rejecting defendants' argument, the court explicitly relied upon the context in which the argument was being made, viz. a horizontal price fix. The court wrote:

> "Whatever consequences may flow from this distinction between impact and damages in other antitrust situations, the issues are essentially the same in a price fixing case; the question is to what extent, if any, has a purchaser paid more for a product than he would have paid had there been no conspiracy." at 933.

Although plaintiffs have merely repeated the language of the court in Ohio Valley in their "Suggestions," they have failed to comprehend the limitations implicit in the first part of the

court's statement. Considerations do differ significantly when only horizontal price fix allegations are made,* as opposed to when more complex and individual vertical issues are involved. In a horizontal price fix context, assuming no individual discounting occurs, the impact of the violation is uniform. In that context, the problem is not one of determining causation -- the sale of the product at the inflated price establishes causation -- rather, the focus of inquiry is on the measure of the overcharge. When vertical allegations are introduced, which focus upon territorial and customer restrictions, the question of causation is not subject to such uniform determination. Instead, since the allegations are based upon a host of relationships between different parties at different levels of the marketing structure, individual analysis of causation is demanded. Plaintiffs' treatment of the impact issue in their trial proposal reflects either their lack of awareness of this distinction and its consequences or their unwillingness to admit of its applicability here.

Plaintiffs' proposal fails to come to grips with the requirement of causation established by Section 4 of the Clayton Act and reiterated in the cases. This failure precludes the Court from adopting that proposal. To elect to try these cases in the manner proposed by plaintiffs would deprive defendants of the protection afforded by the substantive requirements of the antitrust laws.

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* Plaintiff in Ohio Valley purchased directly from the manufacturer.

Rule 42(b), Fed. R. Civ. P., does not bestow upon the Court the power to deprive defendants of such safeguards. 28 U.S.C. §2072.

B. IN LIGHT OF THE NEED TO PROVE IMPACT, THE BENEFITS TO BE DERIVED FROM SEPARATE TRIALS ARE LOST.

The failure of the plaintiffs' proposal to address adequately the problems of causation presented by this litigation cannot be remedied by any trial proposal which seeks to separate the issue of impact from consideration of whether a violation occurred. The issues of violation and impact are inextricably interwoven and cannot be separated without causing undue prejudice to defendants. In addition, since proof of impact of the alleged antitrust violations will overlap the proof of the measure and amount of plaintiffs' supposed damages, separation of such issues would only serve to expand the time necessary to resolve these cases.

Plaintiffs base their motion for a separation of issues on their desire to "conserve judicial time and resources," as well as to "speed the ultimate disposition of these cases." Although Rule 42(b) expressly recognizes the legitimacy of these considerations of convenience, expedition and economy,* plaintiffs' proposal would not expedite these proceedings. In light of the interrelationships between the issues of violation and impact and the increased time necessary to try separately the issues of impact and measure the amount of damages, the considerations

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*Rule 42(b) provides in part:

"(b) Separate Trials. The court, in furtherance of convenience...or when separate trials will be conducive to expedition and economy may order a separate trial...of any separate issue..." Fed. R. Civ. P. 42(b).

relied upon by plaintiffs are neither realized by their proposal nor sufficient to justify separate trials of any of the issues of violation, impact or damage.

1. The Issues of Violation and Impact Are Inextricably Interwoven and Cannot Be Separated for Trial

Plaintiffs recognize the principle that whenever issues are inextricably interwoven, they cannot be separated for purposes of trial. See p. 10, Plaintiffs' "Suggestions Regarding Procedures for Trial". This principle was best stated by the court in Swofford v. B & W, Inc., 336 F.2d 406 (5th Cir. 1964):

> "There is an important limitation on ordering a separate trial of the issues under Rule 42(b): the issue to be tried must be so distinct and separable from the others that a trial of it alone may be had without injustice." at 415 (emphasis supplied).

The issues of violation and impact in antitrust cases generally, and in this case in particular, are prime examples of the types of issues which are not "distinct and separable." As noted in the earlier analysis, each of these issues is equally essential to establish the liability of defendants. They are, therefore, both part of the same step in plaintiffs' attempt to gain recovery from defendants.

In the instant case, it borders on the absurd even to consider separation. Assume that plaintiffs could succeed in establishing certain abstract violations. Plaintiffs would not have established any right to recovery. Rather, they would then have to show that defendants' violation resulted in their being damaged. The difficulties of this analysis and the need to focus

on the details of each transaction have been discussed earlier. (see pp. 9-19). Plaintiffs' proof of the manner in which they were affected by a given violation would also require analysis of the precise details of the acts of defendants which purportedly constituted the violation. In the process, much of the evidence used in the earlier trial to establish defendants' violation would have to be re-analyzed in light of specific factual situations [illegible] in their delay. Nevertheless, such delay would be unavoidable, since to shortcut the analysis by relaxing the standard of proof necessary to establish the causative link would lead to the very kind of injustice against which the court warned in Duffield.

The issues of violation and impact cannot, therefore, be separated. They are both part of the question of liability and that question must be answered in one trial in which the impact of any purported violations is established on a transactional basis.

2. The Cases Cited by Plaintiffs Do Not Constitute Authority for Separation of the Issues in this Case.

The cases relied upon by plaintiffs do not constitute authority for the separation of issues in the context presented by this case. Defendants do not deny that courts have, in other instances, granted separate trials. That advantages to such procedures were found applicable in non-class action cases involving Robinson-Patman and patent antitrust issues such as Switzer Brothers, Inc. v. Locklin, 297 F.2d 39 (7th Cir. 1961), cert. denied 369 U.S. 851 (1962); and State Wholesale Grocers v. Great Atlantic & Pacific Tea Company, 154 F. Supp. 471 (N.D. Ill. 1957), rev'd in

part, 258 F.2d 831 (7th Cir. 1958), cert. denied 358 U.S. 947 (1959), however, do little to advance the inquiry into the proper procedures to be adopted in this case.

Those cases cited in plaintiffs' "Suggestions Regarding Procedures for Trial" which do approach more closely the allegations in the present actions, Union Carbide & Carbon Corporation v. Nisley, 300 F.2d 561 (10th Cir. 1961), cert. dismissed, 371 U.S. [illegible], and Illinois v. Harper & Row Publishers, Inc., 301 F. Supp. 484 (N.D. Ill. 1969) are also readily distinguishable.

First, these cases did not purport to separate the issues of violation and impact. Rather, the issues separated for trial were liability, including both violation and impact, and amount of damages. The significance of this distinction should be apparent. In light of the difficulties inherent in attempting to analyze the two necessary elements of liability in an antitrust action, it is important to bear in mind that in no case has such separation ever been attempted.

Plaintiffs' cases are equally unpersuasive with regard to the separation of liability and damages in the context of the present litigation. Neither the Gypsum cases nor the Nisley case involved horizontal and vertical restrictions in any way similar to those alleged in this litigation. The Gypsum case, which involved a trial of liability pursuant to a stipulation by the parties whereby all rights to jury trial were waived, centered on an allegation of a horizontal price fix. As the discussion of the Ohio Valley case, supra pp. 24-26 makes clear, the questions of impact in a horizontal price fix case are totally different

from those in a complex horizontal and vertical case, such as the case at hand. The need for transactional analysis of impact is not similarly present in a horizontal price fix trial, and this fact, therefore, precludes the application of the procedures employed in Gypsum to the master key cases.

Similarly, the decision in Nisley to allow the jury to assess the total impact of the conspiracy on the class without individual proof of causation arose from a much different type of substantive violation than that alleged in the present case. Although it is unclear how that procedure was adopted -- the opinion fails to make clear whether the procedure was pursuant to stipulation or court order -- it is clear that the court believed that the question of causation was subject to a uniform determination with regard to all plaintiffs. Union Carbide & Carbon Corporation v. Nisley, supra at 579. Even though the complaint in Nisley alleged a more complex conspiracy than that in Gypsum, including allegations of monopolization, attempted monopolization and related conduct to establish a horizontal price fix by the two defendants, the premise upon which the issues were separated, i.e. that impact was uniform, appears valid. The complexities introduced by the additional charges would affect the proof of the existence of the conspiracy, perhaps, but not the nature of its impact on plaintiffs. On the other hand, the complexity of the allegations in the present litigation renders the difference between the various entities in the distribution channel of utmost importance. Those differences directly influence the effect, if any, of the allegedly illegal acts of defendants. In

so doing, such allegations preclude the trial of these cases on the premise upon which the Hisley procedure was founded, viz. that the impact of defendants' acts is uniform.

A third case relied upon by plaintiffs, Illinois v. Harper & Row Publishers, Inc., supra, at first blush appears to be analogous to the present litigation.* Harper & Row involved allegations not only of horizontal price fixing, but also of certain vertical arrangements. Although vertical conspiracies and restraints were alleged, however, such conspiracies and restraints were directed at the maintenance of the horizontally-fixed prices. Again, therefore, the gravamen of plaintiffs' complaint appears to have been a horizontal price fix, which, as noted earlier, has a uniform impact, obviating the need for transactional analysis and thereby facilitating a separation of the issues of liability and damages. Judge Decker's awareness of the fact that the alleged conspiracies were primarily concerned with the fixing of prices and that the impact of such a conspiracy is uniform was made clear by his observation, in passing on the question of class determination, that:

> "If illegal conspiracies raised prices to noncompetitive levels, the purchasers were affected in the same manner and to the same extent." 301 F. Supp. 484, 489.

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* Harper & Row is of no value in providing insight into the practical implications of separating issues for trial since that case was settled immediately after it came to trial.

This observation is inapplicable to the master key cases. In these cases, unlike Harper & Row, the vertical allegations do not consist solely of attempts to ensure horizontally-fixed prices. Instead, the vertical restraints alleged by plaintiffs in these actions focus upon territorial and customer restrictions. While plaintiffs allege that such actions raised the prices charged for builders hardware, the manner and effectiveness of such restraints in raising prices is clearly subject to variations from distributor to distributor, contractor to contractor and plaintiff-owner to plaintiff-owner. In fact, Judge Decker himself recognized the need for individual analysis in the Mid-America Builders case, supra.

That case, brought by a former distributor of defendant Sargent against Sargent, its parent corporation and a second distributor, involved allegations virtually identical to the vertical allegations contained in the complaints of plaintiffs in these actions. In denying plaintiff any relief, Judge Decker repeatedly noted the failure of plaintiff to establish any injury attributable to defendants' allegedly illegal activities:

> "There was no evidence of any situation where Mid-America sought to supply builders hardware to an architect or general contractor outside the Chicago area but was denied the products by Sargent." p. 8 of Memorandum Opinion.*

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*A copy of Judge Decker's Memorandum Opinion is appended for the convenience of the Court.

Judge Decker's transaction-by-transaction analysis in Mid-America Builders, as well as his recognition in Boshes v. General Motors Corp., 1973-1 Trade Cas. ¶74,483 (N.D. Ill. 1973), p. 94,150, that in a treble damage action individual analysis of the "factors [which] might either mitigate or eliminate a damage claim of any individual plaintiff," is necessary, reveal the necessity for such an approach in these cases. Simultaneously it attests to the factual and legal distinctions between the present cases and Warner & Roy and the factual and legal similarities between the present cases and Boshes. The uniform impact acknowledged by Judge Decker in Warner & Roy is, as Judge Decker's later opinions in Mid-American Builders and Boshes make clear, absent in the actions at hand. In light of this absence, the separation of liability and damages based upon such uniformity cannot be adopted here.

In addition, plaintiffs have misrepresented the holding of Justice Stone in Gasoline Products Co., Inc. v. Champlin Refining Co., 283 U.S. 494 (1931). Justice Stone did not hold that "it was correct for the Court of Appeals to remand a case for retrial only on the issue of damages" as stated in plaintiffs' "Memorandum in Support of Motion to Separate Liability and Damage Issues" [illegible]. In fact the Supreme Court reversed the Appellate Court, with Justice Stone noting in the process:

> "But the question remains whether the issue of damages is so distinct and independent of others, arising on the counterclaim, that it can be separately tried. The verdict on the counterclaim may be taken to have established the existence of a contract and its breach. Nevertheless, upon the new trial, the jury cannot fix the amount of damages unless also advised of the terms of the contract; and the

> dates of formation and breach may be material, since it will be open to petitioner to insist upon the duty of respondent to minimize damages." Id. at 499.

The Court went on to say:

> "Where the practice permits a partial new trial, it may not properly be resorted to unless it clearly appears that the issue to be retried is so distinct and separable from the others that a trial of it alone may be had without injustice. See Norfolk Southern R. Co. v. Perkins, 239 U.S. 368, 371; American Locomotive Co. v. Harris, 232 Fed. 234, 240; Gardner v. Adams Express Co., 69 N.Y. 406; McBride v. Richard, 78 N.H. 306, 313; 81 Atl. 528; Gowen v. Harper Co. v. Maynard Co., 47 R.I. 153, 156; 130 Atl. 501; Taylor's Administrator v. Central Vermont R. Co., 87 Vt. 342, 359; 103 Atl. 211. Here the question of damages on the counterclaim is so interwoven with that of liability that the former cannot be submitted to the jury independently of the latter without confusion and uncertainty, which would amount to a denial of a fair trial. Id. at 500.

The issues raised by plaintiffs in the instant case are no more "distinct and separable" than those which compelled the Supreme Court to require a retrial of the issue of liability in making a determination of damages. Similarly this case compels a single trial on both issues.

Given the central importance of the uniformity of impact in those cases cited by plaintiff as examples of instances in which the procedure of separate trials has been held applicable, and the total absence of such uniformity in the present litigation, where transaction-by-transaction analysis is essential, the cases relied upon by plaintiff clearly fail to constitute authority for separation of the issues of liability and damages in the master key cases.

3. Separation of the Issues of Liability and Damages Will Increase the Time Necessary for Resolution of These Cases.

Contrary to plaintiffs' contention, the separation of liability and damage issues in this case will increase, not decrease, the time necessary to resolve these cases.

Previous analysis has pointed out the necessity for a private plaintiff to establish that defendants' alleged antitrust violations were the "material cause" of plaintiff's injury. In the present case, this requirement must be satisfied by a transactional analysis. The same complexity of causative factors which gives rise to the need for transactional analysis also compounds the inquiry when there appear to be two or more possible causes of plaintiffs' injury. If one of these causes is independent of defendants' allegedly illegal conduct, e.g. the owner's decision to require extension of a particular key system, the determination of whether defendants' conduct was a "material cause" of plaintiffs' injury becomes quite involved.

In the Vandervelde case, supra, the court was faced with a similar situation involving multiple causative factors. After recognizing the requirement that the violation must "materially contribute" to the plaintiffs' injury, the court went on to hold that the existence of other contributing factors does not bar plaintiffs from recovery. Rather,

> "The impact of contributing causes--other than the effects of the antitrust violation--on the injury for which a treble damage plaintiff seeks compensation is properly a question of the amount of damages which may be recovered." at 145.

The import of this analysis for the present case is clear. First, the issue of whether the defendants' conduct or other independent factors were the "material cause" of plaintiffs' injury must be resolved. Then, assuming that defendants' acts are held to satisfy the causation requirement, the same factors must again be analyzed in order to determine the amount of damages attributable to each of the various factors. The evidence submitted on each of these two issues will be virtually identical. The only difference will be in the question addressed, either impact or fact of damage, on the one hand, or amount of damage, on the other.

Separation of the liability and damage issues in the present litigation would require that the same evidence be presented in each of the separate trials, resulting in a substantial duplication of effort. The extent of such duplication would be significant since the transactional analysis necessitated by the circumstances of this case requires an examination of both the impact and amount of damages for each transaction. Consequently, the separation of the liability and damage issues would increase rather than decrease the time necessary for resolution of these cases. Defendants' proposals, on the other hand, consolidate these issues for trial thereby providing for the development of the evidence bearing on causation and damages in one proceeding, without wasteful duplication.

In short, the separation of issues in this litigation fails to expedite or economize these proceedings. Violation, impact and damage are simply too interwoven to be separated without causing injustice to the defendants. Furthermore, the attempt

to separate such issues would result in an expansion rather than a savings in the time necessary to dispose of these cases.

C. DEFENDANTS ARE ENTITLED TO HAVE THE SAME JURY RESOLVE BOTH THE LIABILITY AND DAMAGE ISSUES.

Since the present litigation consists of several actions at law for damages, defendants are entitled, under the Seventh Amendment to the Constitution, to a trial by jury of fact. Beacon Theatres, Inc. v. Westover, 359 U.S. 500 (1959); Bertha Building Corp. v. National Theatres Corp., 248 F.2d 833 (2d Cir. 1957), cert. denied, 356 U.S. 936 (1958); Dairy Queen, Inc. v. Wood, 369 U.S. 469 (1962). Under the circumstances of this litigation, in which the issues of violation, impact and damages are inextricably interwoven, all issues of fact must be tried by the same jury.

Rule 42(b) expressly recognizes the importance of protecting a party's right to trial by jury by requiring that any severance of issues must preserve "inviolate the right to trial by jury as declared by the Seventh Amendment to the Constitution or as given by a statute of the United States." Fed. R. Civ. P. 42(b). This concern has led the authors of the Manual for Complex Litigation to note that:

> "Whenever feasible the same jury which tries the issue of liability should try the issue of damages." §4.12

In fact, cases e.g. Bvocik v. Firestone Tire & Rubber Co., 277 F. Supp. 210 (E.D. Wis. 1967), relied upon by plaintiffs, reveal that the granting of separate trials is often based upon the premise that the same jury will determine both liability and damages. Id. at 211.

In this regard, it has long been recognized that in order for an issue to be tried to a separate jury it must be "so [illegible] may be had without injustice." Gasoline Products Co. Inc. v. Champlin Refining Co., 283 U.S. 494, 500 (1931) (emphasis supplied).

The need to have the same jury determine both liability and damages was recognized in the context of a Rule 42(b) motion in United Air Lines, Inc. v. Wiener, 286 F.2d 302 (9th Cir. 1961), cert. denied 366 U.S. 924 (1961). In Wiener, the Ninth Circuit reversed the District Court's order bifurcating the issues of liability and damages, noting:

> "We do not say that in no circumstances can a separate jury determine the issue of damages after another jury has determined the issue of liability, for we do not decide that question in this case.... We do hold that under the circumstances presented by this appeal the issues of liability and damages, exemplary or normal, are not so distinct and separable that a separate trial of damages may be had without injustice. The question of damages is so interwoven with that of liability that the former cannot be submitted to the jury independently of the latter without confusion and uncertainty which would amount to a denial of a fair trial." at 306.

In the present litigation, as in the Gasoline Products and Wiener cases, the issues of violation, impact and damages are inextricably interwoven. (see pp. 24-25 & 29-31, supra). To attempt to submit such issues to separate juries, therefore, would result in the same "confusion and uncertainty" which the court in Wiener held sufficient to reverse the District Court's order separating the issues of liability and damages. In order to avoid such confusion and to ensure defendants a fair trial, the Court should reject plaintiffs' attempt to deprive defendants of their right to have both liability and damage issues determined by the same jury.

III. CONCLUSION

In an address before the Ninth Circuit Judicial Conference, the error in plaintiffs' proposal was succinctly illustrated:

> In treble damage antitrust cases, the requisites of a cause of action are: (1) a violation of the statute, (2) impact of the violation on the claimant's business or property, and (3) damages. Most courts in determining the propriety of antitrust class actions have disregarded the issue of impact, thus ignoring the facts of the geographic area and duration of a conspiracy, the identity of the persons allegedly coerced, the levels of distribution affected by a practice, the products included, and a host of other fact issues relevant to determining impact - all beyond the question of whether defendants committed an offense on which the government could prevail. And the issue of passing on under Hanover Shoe has been consistently ignored.
>
> Courts apparently think ignoring those elements make unmanageable cases manageable; frequently by split trials. One suggested

> short cut is to try the common issue of conspiracy or misrepresentation to a jury and leave individual issues including proof of damages for later resolution by a master. This solution has been aptly characterized as self-delusion. For if the case is to be properly tried before a jury, then the jury must decide the question of reliance or impact as to each member of the class.*

In light of the above analysis, defendants urge the Court to reject plaintiffs' proposal for the trial of these cases. Furthermore, defendants ask the Court to recognize the equal applicability of the criticisms directed at plaintiffs' proposal to similar approaches based upon separation of the issues in these cases. Within the limits imposed by the substantive requirements of the antitrust laws, the goals of expedition, economy and efficiency can best be achieved by denying plaintiffs' proposal to separate the issues of liability and damages.

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*Simon, Class Actions-Useful Tool or Engine of Destruction, 55 F.R.D. 375, 382-383 (1972) (footnotes omitted).

Respectfully submitted,

EATON CORPORATION
EMHART CORPORATION
ILCO CORP.
SARGENT & COMPANY

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Dated: January 3, 1975.

I, Richard M. Reynolds, do hereby certify that I have on this day mailed, postage prepaid, a copy of the above memorandum to counsel on the attached service list of counsel, pursuant to Rule 6 of the Rules of Procedure of this Court.

_____
Richard M. Reynolds
of Day, Berry & Howard
One Constitution Plaza
Hartford, Connecticut 06103

Dated: January 3, 1975.

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN RE:	:	M.D.L. DOCKET NO. 45
MASTER KEY ANTITRUST LITIGATION	:	ALL CASES
	:	JANUARY 3, 1975

DEFENDANTS' MEMORANDUM IN SUPPORT OF THEIR MOTION FOR DENIAL OF CLASS CERTIFICATION.

I. PRELIMINARY STATEMENT.

Seventeen of the 19 actions presently before this Court which involve alleged horizontal and vertical antitrust violations in the distribution and sale of master key systems were brought as class actions.* Three of these actions, Baltimore Lighting Corporation, et al. v. Emhart Corporation, et al., Berman Consolidated Corp., et al. v. Emhart Corporation, et al. and City of Philadelphia v. Emhart Corporation, et al., were filed on behalf of nationwide classes, the former two on behalf of nationwide classes of private owner and builder-owner plaintiffs and the latter on behalf of a nationwide class of "all state, county and local governments and governmental authorities and agencies". Fourteen

* The actions brought by the City of New York and Sturdy Homes Company were not brought as class actions and are not the subject of the present motion.

of these actions, those brought by plaintiffs States of California, Connecticut, Florida, Illinois, Indiana, Kansas, Michigan, Minnesota, New Jersey, New York, Ohio, Pennsylvania, West Virginia and Wisconsin, were filed on behalf of statewide classes consisting of the "departments, divisions, agencies, counties, municipalities, school districts, hospitals and political subdivisions," located within each named plaintiff state.

Although the class action issue was raised earlier and briefed in 1973, no decision was reached at that time with regard to the allowability of the various classes. Defendants now seek to renew the consideration of the class issues and respectfully urge the Court to rule that no class action, statewide or nationwide, can be maintained. None of the public plaintiffs is a direct purchaser capable of recovery and consequently none is able to represent a class. In addition, both private and public plaintiffs present insurmountable manageability problems attributable to the need for individual determination with regard to each member of the class of pass-on and other issues. In the event that the Court should refuse so to rule, defendants respectfully urge the Court to rule that none of the nationwide class actions satisfies the requirements of Rule 23, Fed. R. Civ. P., because common issues do not predominate over individual issues and the nationwide class actions are unmanageable. Class actions may, however, be tentatively maintained on behalf of each named plaintiff state and its statewide class.

II. THE CLASS DETERMINATION IS THE RESPONSIBILITY OF THIS COURT.

The preliminary class determination made by the late Judge Wood, 50 F.R.D. 233 (June 23, 1970) prior to the transfer of

these cases to this District is not binding upon this Court. At the time that order was entered, Judge Wood himself recognized not only the tentative nature of his decision:

> "[W]e reserve all our powers under Rule 23(c)(1) to alter our order or deny class action treatment at any time." at 236 (emphasis supplied),

but the necessity for a future determination of:

> "the precise definition and/or limitation of the class or classes." Id.

This Court's power to revise the tentative class order was subsequently reaffirmed by the Judicial Panel for Multidistrict Litigation:

> "[W]ith regard to the class actions established by Judge Wood, the transferee court can review and if necessary modify the orders at any time. 328 F.Supp. 1404, 1407 (J.P.M.L. 1971)."

This Court has itself recently recognized its power to review and modify the tentative order by noting that it

> "was only a preliminary ruling and that the plaintiffs' allegation of a class action would be subject to challenge following discovery." (citation omitted) fn. 5, Ruling on Motion for Protective Order (November 11, 1974).

Since additional facts have now been developed, the Court should proceed to review all proposed classes and to grant the relief requested by defendants.

III. PRELIMINARY OBSERVATIONS RE CLASS DETERMINATION.

It is well settled law that the burden of establishing that each requirement of Rule 23 is met is on the representative

of the purported class. Demarco v. Edens, 390 F.2d 836 (2d Cir. 1968); William Goldman Theaters, Inc. v. Paramount Film Distributing Corp., 49 F.R.D. 35 (E.D. Pa. 1969). Absent such a showing on the part of the plaintiffs, the Court must rule that these cases are not maintainable as class actions.

In making its determination with regard to the allowability of each of the class actions, the Court should not be concerned with the possible loss of an action by an individual or entity previously encompassed within a disallowed class. Under American Pipe and Construction Co. v. Utah, 414 U.S. 538 (1974), the filing of a class action tolls the statute of limitations with regard to the members of the putative class. Any member of a disallowed class is, therefore, free to file an action on its own behalf within whatever time was left in the running of the statute at the time the class action was filed.

IV. THE PASS-ON CLASS ACTION DEFENSE.

Rule 23(a)(3) requires this Court to find that the claims of the representative parties are typical of those of the proposed class and Rule 23(a)(4) requires a finding that the representative parties will fairly and adequately protect the class interests. No public plaintiff can satisfy this requirement because each of them is at best an indirect purchaser from various intermediate vendors and their purchases were not under pre-existing cost-plus contracts or analogous fixed mark-up arrangements within the cost-plus exception. Since only individuals who were either in privity with defendants or who fit the requirement of the exception can, as a matter of law, recover damages -- assuming any

damages can be proved -- public plaintiffs, not being in that category, cannot properly represent them. Therefore, none of the public class actions, whether statewide or nationwide, is maintainable.*

Defendants urge the Court to reconsider the pass-on issue in light of the fact that the question presently before the Court, whether class certification should be granted, involves considerations quite different from those addressed in conjunction with Defendants' Summary Judgment Motion. This Court recognized the significance of such considerations in its denial of that motion. In distinguishing certain of the cases relied upon by defendants, the Court expressly noted that those cases

> "were decided in the context of a class action determination and are thus only of marginal importance here." 1973-2 Trade Cas. ¶74,660 at 94,975 fn. 5. (D. Conn. 1973).

Defendants now reassert their reliance upon their previous argument and cases "in the context of a class action determination". The Court, therefore, should now reexamine those arguments and cases in light of the different issue under consideration.

In addition to the requirements of Rule 23(a), Rule 23(b)(3) requires the Court, before approving maintenance of a class

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* This argument and the facts upon which it is based were more fully developed in Defendants' Memorandum Opposing Plaintiffs' Proposed Class Action Order and For Relief Under Rule 56. Without waiving any rights to reassert this argument on appeal, defendants have condensed their presentation here in light of the Court's rejection of the argument in its ruling on the Summary Judgment Motion. In particular, the Court is referred to pp. 18-20 of Defendants' Memorandum Opposing Plaintiffs' Class Action Order and For Relief Under Rule 56 (February 13, 1973).

action, to determine that "a class action is superior to other available methods for the fair and efficient adjudication of the controversy," and, in making such a determination, to consider "the difficulties likely to be encountered in the management of a class action." This requirement eliminates the class actions sought to be maintained by private plaintiffs. To the extent that public class actions are not disallowed on account of their indirect purchases, the manageability provision also serves to eliminate them.

The significance of and potential for problems of manageability in these cases were expressly recognized by the Court in denying defendants' summary judgment motion. In a footnote to that opinion, the Court stated that:

> "Insuperable problems of class action management might make pretrial dismissal of certain claims appropriate (citation omitted). But no class issue is before the court on this motion." at 94,979 fn. 6.

Subsequently, the Court made reference to the source of the manageability problems by recognizing that:

> "An important issue of fact--whether a 'cost-plus' or analogous fixed markup arrangement exists between contractors and buyers with respect to builders' hardware--is a matter of great dispute." at 94,982.

It is the necessity for individual analysis of this "important issue of fact" which gives rise to "insuperable problems of class action management." As the court in Boshes v. General Motors Corp., 1973-1 Trade Cas. ¶74,483 (N.D. Ill. 1973) took great care in making clear, even if antitrust violations resulting in increased prices are established,

> "Plaintiffs would still have to prove that retail dealers passed on the 'overcharge' to them. Although on an individual basis the foregoing would not be impossible, it would be an endless task on a class-wide basis." at 94,150 (emphasis supplied).

The same types of individual factors in the sale of automobiles which gave rise to the court's conclusion in Boshes are present in the builders [illegible] industry. (See pp. 14-25, infra.) The conclusion reached in Boshes, therefore, is equally applicable to this litigation.

The time has come for the Court to resolve the class action issues. The significance of the problem of manageability which was recognized previously must now be viewed in conjunction with the particular facts of the master key cases and the conclusion reached that individual analysis of the pass-on question for each plaintiff renders these cases unmanageable and, therefore, inappropriate for class action treatment.

V. REGARDLESS OF THE PASS-ON ISSUES, ALL NATIONAL CLASSES SHOULD BE DENIED.

Assuming the Court does not deny all class actions on the basis of the pass-on problems, all national classes should be disallowed. State class actions may be allowed, and former members of the purported national classes may then file in their own behalf.

A. The Purported National Class Representatives Fail to Meet the Requirements of Rule 23(a)(3) and 23(a)(4).

The nationwide classes of private builder-owners proposed by Amherst Leasing and Bermar Construction and the nationwide class

of governmental entities proposed by the City of Philadelphia should be denied for failure to satisfy Rule 23(a)(3) and (a)(4). As noted earlier, these subsections require that the claims of the representative parties be typical of the claims of the purported classes and that the representative parties will fairly and adequately protect the class interests.

1. Bermar Construction Corp.

Plaintiff Bermar is, without doubt, unwilling to protect fairly and adequately the interests of a class of private builder-owners. In fact, pursuant to its Motion for Voluntary Dismissal of November 29, 1973, the action brought by Bermar will soon be dismissed altogether. At the hearing before the Court on September 30, 1974, the plaintiffs and defendants were each asked to submit a proposed dismissal order so as to allow the Court to "get them [Bermar] out of the case that way." Transcript of Hearing, September 30, 1974, p. 50. In light of such imminent dismissal, Bermar's proposed class action should be disallowed.

2. Amherst Leasing Corporation.

Similarly, Amherst Leasing cannot be deemed to be an adequate class representative. Under Eisen v. Carlisle & Jacquelin, 94 S. Ct. 2140 (1974) a class representative must bear the expense of providing notice to all "members of the class who can be identified through reasonable effort." Amherst Leasing has expressed no willingness whatsoever to accept this responsibility. Mr. Samuel J. Lefrak, Chief Executive Officer of Amherst, and the individual who would have ultimate responsibility for authorizing the notice expenditure, has sought to avoid being deposed in this action, claiming a lack of knowledge of any matters related to

this litigation. Although the Court has recently denied plaintiffs' motion for a protective order and defendants will now be able to depose Mr. Lefrak with regard to the class issues, including the willingness to sustain the burden of notice to the class,* it is difficult to imagine that an individual who supposedly has no knowledge of -- and apparently no interest in -- the transactions which gave rise to this action would be willing to expend the sums necessary to satisfy the notice requirement imposed by Eisen or otherwise to ensure fair and adequate representation of the class as required by Rule 23(a)(4).

Amherst also fails to satisfy Rule 23(a)(3), requiring that the claims of the representative parties be typical of the claims of the class. Each of the 46 named plaintiffs in Amherst purchased hardware solely for installation in high-rise apartment buildings. Differences between the quality of hardware used and the keying requirements to be satisfied in such apartment buildings and the quality and keying requirements encountered in office buildings, hotels and motels, render the claims of Amherst atypical of the claims of builder-owners of buildings other than high-rise apartments.

In addition, each of the named plaintiffs in Amherst always purchased the same brand of builders hardware--Lockwood--and always from the same distributor--Atlantic Hardware in New York City. Given the local variations in marketing conditions in the builders hardware industry and the tendency of builder-owners to satisfy their hardware needs through purchases from a small number

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* See pp. 6-8, Ruling on Motion for Protective Order, November 11, 1974.

of local distributors, this fact limits the representativeness of plaintiffs' claims not only to builder-owners located in the New York City area, but also to those who purchased Lockwood hardware exclusively from Atlantic. This latter limitation results from the fact that by purchasing one brand of hardware exclusively from one distributor, serious issues arise as to the impact, if [illegible] issues must be addressed on an individual basis and the claims of the named plaintiffs in Amherst are, therefore, not typical of those of the nationwide class sought to be represented in that action.

Finally, and perhaps most importantly, according to Anthony Scavo, who was in charge of purchasing hardware for the 46 named plaintiffs, none of the named plaintiffs ever bought hardware by means of competitive bidding. All purchases were negotiated. Moreover, when the same hardware was offered at a lower price by a different distributor, the named plaintiffs in Amherst continued to purchase from Atlantic. This fact renders the claims in Amherst so particular to the parties named as plaintiffs that those parties cannot be held to be typical of those of the class they purport to represent as required by Rule 23(a)(3). Amherst Leasing, therefore, fails to satisfy either Rule 23(a)(3) or Rule 23(a)(4) and class action certification should be denied.

3. City of Philadelphia.

The nationwide class action filed by the City of Philadelphia on behalf of governmental entities also fails to satisfy the requirements of Rule 23(a)(3) and (a)(4) and should be denied

class action status. One notable disparity between the claims of Philadelphia and those of the members of the class which it purports to represent is the paucity of master key extensions involved in the projects constructed by the City of Philadelphia.

A master key extension involves the continuation of a master key system by providing additional locks which are so keyed that [illegible] same key. Where the specifications for a construction job do not call for an extension of a master key system, suppliers may offer to furnish any brand of lockset which will satisfy the quality standards of the specifications. These brands may include the defendants' products or the products of other lock manufacturers, such as Schlage, Falcon, Best or Arrow. On such jobs, known as original installations, contractors generally receive several bids from various distributors of competing brands of hardware.

A significantly different competitive content is presented when the specifications require an extension of a master key system. Since the general contractor must supply the existing brand of locksets, all interbrand competition is removed and, consequently, the specification of an extension results in fewer bidders offering to supply the locksets. This situation thus presents entirely different marketing considerations.

The differences between original installations and extensions of master key systems will give rise to differing issues with regard to liability, impact and damages during the course of trial. The City of Philadelphia is not well-suited to develop these issues properly and fully.

Of the 52 projects for which plaintiff has documents, only 3 projects involved extensions of master key systems. This number is too small in absolute terms to serve as a sample revealing the nature of possible claims relating to master key extensions. In this regard, therefore, Philadelphia falls short of the requirement of Rule 23(a)(4) requiring that the named plaintiff fairly and adequately represent the class. Three extensions out of 52 projects also varies from the general percentage of master key extensions to original installations reflected in the documents of other governmental entities. Of 604 Illinois projects, 126 involved master key extensions;* of 200 Indiana projects, 54 involved master key extensions; and of 209 University of California projects, 135 involved master key extensions. These numbers belie any assertion on the part of the City of Philadelphia that its claims are typical of the class it purports to represent as required by Rule 23(a)(3).

This Court should not hesitate to deny the national class action brought by the City of Philadelphia on the basis of its concern that otherwise legitimate claims may go unsatisfied. Dismissal of the nationwide public class will leave but a relatively small proportion of the public entities serving a minor segment of the population in this country unrepresented. The major populous states have all filed individual statewide class actions, independent of the action brought by the City of Philadelphia, and any other state is free to do likewise upon the denial

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* Admitted by plaintiff Illinois in its response to defendants second set of requests for admissions of fact.

of the national class action. See American Pipe & Construction, supra. Even the State of Pennsylvania has elected to file its own action rather than to become a member of the national class. The result of these filings is that the City of Philadelphia, although purporting to represent a nationwide class does not even represent the state in which it is found or the three most populous states contiguous to it, viz. New York, New Jersey and [illegible] Philadelphia seeks to represent are, for the most part, the sparsely populated plains states.**

The City of Philadelphia is not typical of those states it seeks to represent. Philadelphia is a densely populated metropolitan area, where there are numerous hardware distributors, and several hardware distributors in the area carry the same brand of hardware. By contrast, the states which Philadelphia purports to represent are mainly rural and do not have sufficient population density to support numerous distributors, much less several distributors of the same hardware brands.*

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* The court in In Re Ampicillin Antitrust Litigation, 55 F.R.D. 269 (D.C. Dist. Of Col. 1972) noted in this regard that:

> "[T]he appropriateness of having certain states and cities represent entities...outside as well as within their jurisdictions, while other states and cities are limited to representing those entities...within their territories is not altogether clear." at 277.

The appropriateness of such representation is even more questionable when the lesser entity represents only those greater entities geographically distant from it.

** E.g. Colorado, Nebraska, Wyoming, the Dakotas, Montana, Idaho and Utah, as well as some Southern States.

The City of Philadelphia is not, therefore, representative of the entities encompassed within its supposed class with regard to either the types of purchases made or the market structure in which those purchases are made. It does not, therefore, qualify for class action treatment under Rule 23(a)(3) and Rule 23(a)(4).

B. All National Class Actions Should be Denied Because

Rule 23(b)(3)requires that in order for a class action to be maintained, the plaintiffs must not only satisfy the requirements of Rule 23(a), but must also establish that "the questions of law or fact common to the members of the class predominate over any questions affecting only individual members". Courts have routinely denied class treatment to antitrust cases in which common issues do not predominate. Caceres v. International Air Transport Association, 46 F.R.D. 89 (S.D.N.Y. 1969) appeal dismissed 422 F.2d 141 (2d Cir. 1970); William Goldman Theatres, Inc., supra; Lah v. Shell Oil Co., 50 F.R.D. 198 (S.D. Ohio 1970); Al Barnett & Son, Inc. v. Outboard Marine Corp., CCH 1974-2 Trade Cases, Paragraph 75,243 (D. Del. 1974).

In the present case, the identity of the alleged antitrust violations might at first appear to outweigh the distinctions among various members of the putative class. An understanding of the builders hardware industry, however, reveals both the nature of such differences and their import in rendering impractical any attempt to prove both a national conspiracy and hundreds of vertical conspiracies with a uniform impact on purchasers throughout the country.

The distribution and sale of builders hardware involves a segmented market structure attributable to local, regional and institutional variations among manufacturers, distributors, contractors and end-users. Among these factors are (1) the market penetration by manufacturers in different geographic areas; (2) the local or regional basis upon which distributors [illegible] and (4) the procurement practices of the various end-user plaintiffs and purported class members.

Market Penetration by Manufacturers in Different Geographic Areas.

Both defendant and non-defendant lock manufacturers have varying degrees of market penetration in different areas of the country. For example, the documents made available by plaintiffs reveal that locks manufactured by non-defendant Schlage were installed in 77 of the 163 California projects for which the brand of cylinders installed is known, 10 of the 221 Illinois projects,* 2 of the 14 Philadelphia projects and none of the 67 Indiana projects. These same documents reveal that locks manufactured by non-defendant Best were installed in 138 of the 221 Illinois projects,* 11 of the 67 Indiana projects, none of the 14

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* Admitted by plaintiff Illinois in its response to defendants' second set of requests for admissions of fact. The variations in the extent of market penetration by non-defendants is illustrated in plaintiff Illinois' responses to defendants' second set of requests for admissions of fact. For example, in response to request No. 22, plaintiff admitted that at the time of construction of each of the 33 projects at Northern Illinois University, the University had a campus-wide Best master key system and that plaintiff has no information indicating that a master key system of any of the defendants was in existence on campus at the time of such construction.

Philadelphia projects and none of the 163 California projects. Similar variations exist among defendants, with Lockwood having virtually no distributors West of the Mississippi and East of the Sierras. These differences may even occur within a given state, such as Florida, where Schlage is strong in the southern part of the state, but not in the northern part.

[illegible] tices employed by defendants in the different markets. To the extent that the practices of defendants are the same in all markets, the differences in market shares reflect the variations in impact of such actions in different areas. To the extent that the practices of the defendants differ from market to market, the differences in market shares reflect the need for individual analysis of such practices. Even assuming, therefore, that some of defendants' actions are, as plaintiffs allege, violations of the antitrust laws, each market, the practices followed there, and the impact of such practices, must be separately examined.

The Local Basis Upon
Which Distributors Operate.

With few exceptions, general contractors operate on a local basis. In turn, the general contractors usually look to builders hardware distributors in the local community to supply hardware for contract jobs. The result is a widely differing variety of conditions throughout the country as to marketing patterns for builders hardware by distributors.

These local marketing patterns further compound the issues presented by different levels of market penetration by manufacturers in different parts of the United States. The effect of

each manufacturer's response to such conditions may be either neutralized or intensified by the various local practices. Here again, assuming that practices violative of the antitrust laws are established, such practices may well be endemic to a particular locality and attributable to local conditions and, therefore, not capable of being imputed to the rest of the country. Individual resolution of such issues is mandatory.

The Number and Percentage of Master Key Extensions.

Considerable variation exists in both the number and the percentage of master key extensions installed in projects for different entities. The figures provided earlier reveal a range from 3 master key extensions in 52 projects for the City of Philadelphia to 135 extensions in 209 projects for the University of California. The different competitive contents presented by original installations and extensions serve further to multiply the individual issues before the Court.

The Procurement Practices of End-User Plaintiffs and Purported Class Members.

The procurement practices with regard to master key systems are subject to considerable variation. In Tennessee and Mississippi, for example, a policy was in effect during the periods complained of in these actions which precluded the specifications (which prescribe the materials to be supplied) from requiring extensions of existing master key systems. New York, on the other hand, sought to continue its master key systems by arranging to have the various lock manufacturers interchange cylinders,

thereby allowing each manufacturer to extend the master key of another manufacturer. California adopted a third approach which specifically required that on certain projects master key systems must be extended and no substitutions would be allowed. In fact, on some new projects, the University of California uniquely required that the projects be keyed to any one of three existing master key systems. The specification for State of Oregon buildings was split between locks and all other hardware, in order to maintain the benefits of existing master key systems, while at the same time obtaining the widest possible competition. And the specification for the State of Pennsylvania General State Authority building program was a closed specification restricted to two manufacturers, Best and Falcon, thus precluding all of the defendants from bidding on such state work. Each of these variations poses unique questions as to the existence of any restrictive practices under such conditions and the impact of any such practices which may have existed. In so doing the number of individual issues is further compounded.

Clearly, these factors operating together render impractical any attempt on the part of plaintiffs to establish nationwide classes subject to both a nationwide conspiracy and to hundreds of local vertical conspiracies with a uniform impact throughout the country. There is no national market. Rather, there are several markets in which different manufacturers compete. There are no typical distributors. Rather there are hundreds of different distributors working with hundreds of different contractors under a variety of conditions throughout the country. There is no uniform type of purchase. Rather there are original

installations and there are extensions, ranging in cost from a few dollars to thousands of dollars. There is no typical purchaser whose methods are reflective of all others. Rather there are thousands of different purchasers with different needs, desires and procurement practices.

The need for individual analysis of these various factors will be further compounded by the need to determine the applicability of the statute of limitations and the merits of any claim as to fraudulent concealment. The burden of establishing fraudulent concealment is on the plaintiff. See Caotzi v. Carling Brewing Co., 208 F. Supp. 615, 621 (E.D. Mich. 1962). Thus, each plaintiff will be called upon to establish not only the act or acts of defendants complained of (among the numerous liability theories advanced by plaintiffs), but also the fraudulent concealment of such acts. The nature of this issue demands that analysis proceed on a transaction-by-transaction basis. These individual issues, combined with those discussed earlier, are so substantial as to predominate over any common issues which might by found.

The issues described above cannot be segregated from whatever common issues might exist by separating the liability and damage aspects of this case. In order to establish a right to recovery under the antitrust laws, plaintiffs must show (1) that there was a violation, (2) that plaintiff has suffered some loss and (3) that the violation was the "material cause" of that loss. 15 U.S.C. 15. The determination of liability requires not only a violation of the statute, but an injury directly traceable to that violation. Burnham Chemical Co. v. Borax Consolidated, 170 F.2d 569 (9th Cir. 1948), cert. denied 336 U.S. 924 (1949);

Al Barnett & Son, Inc. v. Outboard Marine Corp., 5 Trade Reg. Rep. (1974 Trade Cas.) ¶75,243 (D. Del. 1974). Both aspects of a liability showing require a detailed analysis of the individual issues noted earlier. Proof of a violation in one situation cannot be used to impute to defendants similar violations in other situations. Evidence of conduct in one region cannot be viewed as descriptive of the conditions and patterns in another area. Similarly, assuming that such abstract violations could be shown, plaintiffs would still be required to show that such violations were the material cause of their injury. The individual nature of such proof was recognized in the Barnett case, where the court wrote:

> "...the fact of damage to a particular plaintiff is an essential element of his cause of action. (citation omitted) Therefore, each of the named plaintiffs and the purported members of the class must individually prove that each in fact has been injured in his business or property by the alleged antitrust violations.... Subsidiary to this proof there are other fact questions of a highly individualistic nature which must be established by each class member, for example, the marketing area in which the class member does business, competition within the area, ...and perhaps the subjective preferences (of the purchaser)." at 97,629-97,630 (emphasis supplied).

The same factors, marketing area, competition within the area, and customer purchasing practices which the court in Barnett held sufficient to deny class certification are especially critical in the master key cases because of the reliance by plaintiffs on allegations of horizontal conspiracies to enforce vertical restrictions as well as independent vertical restraints. Proper

analysis of the impact of these alleged vertical violations requires close consideration of the marketing conditions and customer practices in each allegedly affected area. See also, City of Detroit v. Grinnell Corp., 356 F. Supp. 1380 (S.D.N.Y. 1972), modified 495 F.2d 448 (2d Cir. 1974).* And such analysis results in the predominance, not of common issues, but of individual issues particular to only one plaintiff and, in many cases, only one transaction.

The following examples of alleged violations illustrate the necessity of analyzing each transaction in considering both liability and damages and the consequent predominance of individual over common issues. First, plaintiffs contend at p. 19 of their Designation of Evidence dated December 6, 1974, that Yale declined to bid on jobs specified as additions to a competitor manufacturer's master key system. As evidence of this practice they refer to a letter from Leo Pantas to John Doenar concerning Carthage college. Leo Pantas, Yale's former vice president, testified that Yale expended considerable effort trying to sell hardware for Carthage College. Yale was unable to do this, not because of its own policy, but because the specification prepared by the architect selected by the college required the use of Sargent hardware. Yale's inability to sell the Carthage College job did not result from a refusal to bid as plaintiffs claim, but from the architect's refusal to sanction the use of Yale hardware.

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* In Grinnell, the court wrote:

> " The question of impact, essential to the determination of liability, in a private damage suit, presents difficulties in the context of a national class action. There are differing competitive climates in each of the areas involved. All the members of a class did not contract for the same services, even in the same city." at 1389

As Mr. Pantas pointed out, Yale never "bid" jobs; Yale sold hardware to its authorized distributors. (Pantas deposition pp. 48-50). Second, plaintiffs contend that Yale prevented Hellring Bros., Inc. from buying locks to extend a master key system at the American Cyanamid plant in Princeton, New Jersey, and that Yale required locks for that job to be purchased through New Jersey Hardware. (Plaintiffs' Designation of Evidence p. 50). The key records show that the American Cyanamid system was started by New Jersey Hardware and extended by Hellring who was a Yale locksmith account. If Yale could exercise the control over its sale of master keys that plaintiffs contend, Hellring would not have been allowed to buy hardware for the American Cyanamid job since Hellring was not an authorized Yale contract dealer. Third, plaintiffs alleged in their Designation of Evidence at p. 77 that collusive bidding on a job at Arkansas A,M&N College was evidenced by a memo to D. H. McCulloch reporting that a "complimentary" bid was arranged on the job to protect an Emhart dealer. Documentation on the actual transaction shows, however, that the dealer who was to submit the "complimentary" bid did in fact order and receive material for the job. Fourth, plaintiffs allege in their Designation of Evidence at p. 95 that an Emhart dealer, Binswanger & Co. of Memphis, Tennessee, was told that materials would not be shipped for the Sheffield Housing Project in Sheffield, Alabama because the job was located outside the dealer's territory. An examination of the shipping orders involved in the transaction in fact reveals that Emhart shipped the materials to "G. E. Bass Const. Co., c/o Housing Project 68-4, Sheffield, Ala., charge[d] to Binswanger & Co., P. O. Box 167, Memphis, Tenn." Thus, a proper determination

of impact, essential to the determination of liability, involves an analysis of each transaction and each transaction raises its own issues. The existence, predominance and unavoidability of such individual issues disqualify the national class actions brought herein under Rule 23(b)(3). Boshes v. General Motors Corp., 1973-1 Trade Cas. ¶74,483 (N.D. Ill. 1973).

C. All National Class Actions Should Be Denied Because Such Actions Would Be Unmanageable.

Rule 23(b)(3) requires the Court, before approving maintenance of a class action, to determine that this procedure is superior to other available methods for the "fair and efficient adjudication of the controversy," and, in making such a determination, to consider "the difficulties likely to be encountered in the management of the class action." It is clear that class treatment is not appropriate when efficient judicial management of complex and disparate facts is not feasible. See e.g., City of New York v. International Pipe & Ceramics Corp., 410 F.2d 295, 298 (2d Cir. 1969).

Even assuming that the individual factors described above are held subordinate to the common issues in this litigation, the magnitude and scope of these individual issues are such as to render the proposed national class actions unmanageable. As noted earlier, the substantive standards of the antitrust law as applicable to these cases require that each plaintiff, including each purported member of the proposed classes, must individually prove that it has in fact been injured, and thereafter the amount of its injury.

The detailed nature of such proof can be seen by tracing the steps in plaintiffs' case which must be followed assuming that a violation is established. First, in order to prove impact from a restriction on a distributor, plaintiff must show that that distributor in that instance (a) would have bid and (b) would have bid at a lower price. Second, to prove damages, plaintiff must next show, as to each job, the amount by which the restricted distributor's bid would have been lower than the winning bid. Since the distributors who have testified by deposition or affidavit agree that each job is analyzed and bid separately, the transactional basis of the inquiry is clear.

This individual and detailed proof, requiring -- in addition to other issues -- proof that the alleged overcharges were actually passed-on, will create a procedural morass of unmanageable proportions. This problem cannot be alleviated by allowing plaintiffs to prove damages without regard to relevant individual considerations. As the Court noted in Ralston v. Volkswagenwerk, A. G., 61 F.R.D. 427 (W.D. Mo. 1973):

> "To afford manageability by impinging upon substantial rights--or duties--to present individualized evidence is not an acceptable goal of a class action." at 433.

The "insuperable problems of class action management" anticipated by the Court in its Summary Judgment Ruling are unavoidable. The Court should, therefore, act now to avoid a procedural debacle by denying the national class actions of Amherst, Berner and the City of Philadelphia.

VI. CONCLUSION.

For each of the foregoing reasons, defendants respectfully urge the Court to rule that these suits, and in particular those of Amherst, Bermar and the City of Philadelphia, are not maintainable as class actions under Rule 23 of the Federal Rules of Civil Procedure.

Respectfully submitted,

EATON CORPORATION
EMHART CORPORATION
ILCO CORP.
SARGENT & COMPANY

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Dated: January 3, 1975.

I, Richard M. Reynolds, do hereby certify that I have on this day mailed, postage prepaid, a copy of the above memorandum to counsel on the attached service list of counsel, pursuant to Rule 6 of the Rules of Procedure of this Court.

Richard M. Reynolds
of Day, Berry & Howard
One Constitution Plaza
Hartford, Connecticut 06103

Dated: January 3, 1975

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN RE:	M.D.L. DOCKET NO. 45
MASTER KEY ANTITRUST LITIGATION	All Cases

ANSWERS TO DEFENDANTS' INTERROGATORIES TO ALL PLAINTIFFS AS TO THE ALLEGATION OF HORIZONTAL PRICE-FIXING CONSPIRACY

Plaintiffs, through their attorneys, submit the following answers to the above captioned interrogatories. Plaintiffs reserve the right to correct, amend and supplement these answers.

Interrogatory No. 1:

Is it your contention or will it be your contention at trial that any two or more defendants acted, combined or conspired among themselves to fix list or book or net prices for master key systems and/or builders hardware?

Answer: Yes.

Interrogatory No. 2:

If the answer to the preceding interrogatory is other than an unqualified negative, set forth with respect to each alleged agreement, combination or conspiracy to fix list or book or net prices for master key systems and/or builders hardware:

(a) the date on which the agreement, combination or conspiracy commenced;

(b) the date on which the agreement, combination or conspiracy ended;

(c) the date and the exact nature and description of the act, deed, transaction or meeting which constituted the first act, deed, transaction or meeting in furtherance of the agreement;

(d) the name of each corporate officer of each defendant who participated in the first act, deed, transaction, or meeting which commenced the agreement, combination or conspiracy;

(e) the description of each item of builders hardware affected by the first such act, deed, transaction or meeting and the amount by which the price of each such item was raised as a result of such act, deed, transaction or meeting;

(f) what you contend or will contend at trial is a competitive price for each item of builders hardware listed in your answer to the preceding interrogatory;

(g) other than the alleged instances set forth on pages 1-5 of PLAINTIFFS' DESIGNATION OF EVIDENCE WITH RESPECT TO TRIAL OF LIABILITY ISSUES, describe every act, deed, transaction or meeting in furtherance of each such agreement, combination or conspiracy, including the date, the location, the names of the participants and the result of such act, deed, transaction or meeting, including the amounts by which the prices of affected items of builders hardware were raised.

Interrogatory No. 3:

Identify each document referring or relating to or constituting each such agreement, combination, conspiracy, act, deed, transaction or meeting.

Answer:

On a regular basis, defendants exchanged not only price lists, but also explanations regarding the hardware designs covered by the price lists, the special prices for different customers, and discounts from such price lists. This exchange of pricing information was designed to stabilize the book or list prices for contract hardware. The following documents include the following:

Sender	Recipient	Date	Code No.
H.C. Noyes, Sargent & Co.	A. Brownell, Lockwood Hdwe.	5/22/52	S-1828
W.F. Lynch, Lockwood Hdwe.	H.C. Noyes, Sargent & Co.	5/26/52	S-1827
H.C. Noyes, Sargent & Co.	Lockwood Hdwe.	9/4/52	S-1832
W.F. Lynch, Lockwood Hdwe.	H.C. Noyes, Sargent & Co.	9/8/52	S-1831
H.C. Noyes, Sargent & Co.	W.F. Lynch, Lockwood Hdwe.	7/20/55	S-1840
Handwritten note attached to S-1840			S-1839
H. C. Noyes, Sargent & Co.	W.F. Lynch, Lockwood Hdwe.	8/9/55	S-1837-38

Samuel Gilbert, Lockwood Hdwe.	J.B. Duff, Sargent & Co.	8/11/55	S-1833
W.F. Lynch, Lockwood Hdwe.	H.C. Noyes, Sargent & Co.	11/14/55	S-1836
Suggested Retail Price List for Lockwood Residential Cylindrical Lock and Latchsets (attached to S-1833)		11/1/55	S-1834-35
H.C. Noyes, Sargent & Co.	W.F. Lynch, Lockwood Hdwe.	9/27/56	S-1824
List of Lockwood design names that were changed in catalog (enclosed with S-1814)			S-1826
W.F. Lynch, Lockwood Hdwe.	H.C. Noyes, Sargent & Co.	10/6/56	S-1823
List of Lockwood design names that were changed in catalog (enclosed with S-1820)			S-1825
J.C. Ehlblad, Sargent & Co.	Contract Sales Managers	1/7/60	S-974
R.S. West, Sargent & Co.	Independent Lock Co.	4/21/61	S-1675
R.S. Falk, Independent Lock Co.	R.S. West, Sargent & Co.	5/2/61	S-1674
Thomas A. Morris, Yale & Towne	J.C. Ehlblad, Sargent & Co.	5/19/65	S-1 5
Lockwood Hdwe.	Lockwood Contract Distributors	4/22/66	S-471
Yale & Towne	Contract Hardware Accounts	9/7/67	S-1376
F.W. Saunders, American Hardware Corporation		undated	S-1431
E.H. McCulloch	W.J. Ziegenhein	2/4/64	E-4091
Handwritten notation: "John F. Moyer Lockwood Hdwe. Mfg. Co., 35 Daniels St., Fitchburg, Mass. All prices."		undated	E-3467
J.B. Duff	D.M. Parent	4/27/56	S-702
E.H. McCulloch, Lockwood Hdwe.	D.C. Ehlenfeldt, Russwin	6/16/70	E-1183-89

Fred Hollfelder, Russwin	Sargent & Greenleaf	11/12/69	E-3960
Fred Hollfelder, Russwin	Von Duprin, Inc.	11/12/69	E-3959
Fred Hollfelder, Russwin	Norton Door Closers	11/12/69	E-3961
Fred Hollfelder, Russwin	Adams Rite Manufacturing Co.	11/12/69	E-3962
Fred Hollfelder, Russwin	LCN Closers	11/13/69	E-3963
Fred Hollfelder, Russwin	Lockwood Hdwe.	5/11/70	E-3964
Robert Kitchilson, Dexter Lock	Russwin	10/5/66	E-1035
F.L. Mathes	R.C. Bolt J. W. Elliott	10/21/66	E-1033
W.C. Lichtenfels, Russwin	Robert Kitchilson, Dexter Lock	undated	E-1034
P. & F. Corbin Market Research	J.M. Calvert, Monarch Hdwe.	12/20/63	E-1
W.J. Stelkovis, Inton	Paul O'Brien, Inton	5/13/71	Y-747
W.C. Lichtenfels	D.R. Taylor, Jr.	6/24/64	E-11,539
D.R. Taylor, Jr.	W.C. Lichtenfels	6/18/64	E-11,540
Lockwood Hdwe.	All Contract Accounts (w/ handwritten notation: "No [illegible]"	2/10/64	E-1243
List of Lockwood Hdwe. Special Net Prices to be used for Government Work		2/10/64	E-1244
Lockwood Bulletin Index		2/10/64	E-1245
H.B. Kent, P. & F. Corbin	Eli Yale, Sargent & Co.	8/15/62	E-10,20
H.B. Kent, P. & F. Corbin	Eli Yale, Sargent & Co.	7/2/62	E-10,212
Eli Yale, Sargent & Co.	H.B. Kent, P. & F. Corbin	7/10/62	E-10,211

H.B. Kent, P. & F. Corbin	Eli Yale, Sargent & Co.	7/17/62	E-10,210
Eli Yale, Sargent & Co.	H.B. Kent, P. & F. Corbin	8/23/62	E-10,207
Geddes Parsons, P. & F. Corbin	J.C. Elmblad, Sargent & Co.	9/20/62	E-10,205
Geddes Parsons, P. & F. Corbin	J.C. Elmblad, Sargent & Co.	9/24/62	E-10,206
H.B. Kent, P. & F. Corbin	Eli Yale, Sargent & Co.	9/24/62	E-10,207 (number used twice)
H. B. Kent, AHC	Harold Asal	10/30/62	E-10,209
P. & F. Corbin	J.C. Elmblad, Sargent & Co.	1/13/61	S-1423

The defendant manufacturers agreed, combined and/or conspired among themselves to set the prices of certain hardware sold to hollow door manufacturers. The manufacturers and respective union executives included:

Lockwood Hardware Manufacturing Co.	John J. Mayer
P. & F. Corbin and Russwin	L. Curtis Booth
Sargent & Company	Herman Giese
Yale & Towne Manufacturing Co.	Leo Pantas

The documents related to this agreement include:

Sender	Recipient	Date	Code No.
Allen P. Wherry, Steel Door Institute	L. Curtis Booth, P. & F. Corbin	9/27/57	E-9389
L. Curtis Booth, P. & F. Corbin	Allen P. Wherry, Steel Door Institute	9/30/57	E-9389
L. Curtis Booth P. & F. Corbin	Leo Pantas, Yale & Towne	9/30/57	E-9390
L. Curtis Booth, P. & F. Corbin	John J. Mayer, Lockwood Hardware	9/30/57	E-9391

L. Curtis Booth, P. & F. Corbin	Louis DuFresne, Schlage Lock Co.	9/30/57	E-9392
L. Curtis Booth, P. & F. Corbin	Herman Giese, Sargent & Co.	9/30/57	E-9393
L. Curtis Booth, P. & F. Corbin	Allen P. Wherry, Steel Door Institute	9/16/57	E-9394
William S. Haswell, NBHA	L. Curtis Booth, P. & F. Corbin	9/21/59	E-8200
Allen P. Wherry, Steel Door Institute	W.S. Haswell, NBHA	9/25/59	E-8199
L. Curtis Booth, P. & F. Corbin	Wm. S. Haswell, NBHA	10/1/59	E-8198
Wm. S. Haswell, NBHA	L. Curtis Booth, P. & F. Corbin	10/6/59	E-8196-97
L. Curtis Booth, P. & F. Corbin	D.R. Lasier, LCN Closers, Inc.	10/8/59	E-8195
Minutes of Joint Technical Committee Meeting, NBHA - SDI - MMA		8/13/57	E-9391-93

The manufacturers agreed -- both directly and under the guise of trade association activity -- to stabilize prices at artificially high levels by suppressing competition on construction projects that involved the possible retention or continuation of master key systems. The documents relating to these agreements are designated in the Summary of Evidence, pages 6-67. Other documents include [illegible]

Sender	Recipient	Date	Exhibit No.
E. H. McCulloch VP - Sales Russwin	W.J. Ziegenhein Exec. VP	8/13/64	E-8379
Clyde T. Nissen, BHMA	H.R. Giese, Sargent & Co.	3/3/65	S-581-582
E. A. Yale, Sargent & Co.	H. R. Giese,	5/10/65	S-[illegible]
Mary Roth, ASAHC	Marion Goodrich Elihu Yale Clyde T. Nissen E.H. McCulloch Carl S. Bauman	5/10/65	S-591

Record of Proceedings - BHMA-ASAHC Liaison Committee Meeting		4/30/65	S-592-594
E.R. Will, Murray R. Womble Company	J.Bryer Duff, Sargent & Co.	2/20/63	S-3154-55
Robert C. Minnick, Yale & Towne	L.F. Quedenfeld	undated	Y-G-207
L.F. Quedenfeld	Joe, Yale & Towne	6/11/66	Y-G-207
Joe Rianenta, Yale & Towne	Ed Farly, Allen & Co.	5/16/66	Y-G-210
Clyde T. Nissen, BHMA	Herman R. Giese, Sargent & Co.	3/17/65	S-580
Article entitled "Profits and/or Ethics" by T.H. McCulloch, President of ASAHC in May 1965 issue of Hardware Consultants.			Not coded

The deposition testimony of Richard A. Cure, taken in Los Angeles on April 30 and May 1, 1975, is further evidence of the illegal conspiracy among defendants to suppress competition on the sale of contract hardware for nuclear test jobs.

LEE A. FREEMAN, JR.
Liaison Counsel for Plaintiffs

[illegible]
[illegible]
[illegible]
(312) [illegible]

DATED: May 21, 1975

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN RE:	M.D.L. DOCKET NO. 45
MASTER KEY ANTITRUST LITIGATION	All Cases

NOTICE OF FILING

TO: ALL COUNSEL OF RECORD

PLEASE TAKE NOTICE that we have this day filed with the Clerk of the United States District Court for the District of Connecticut SUPPLEMENTAL ANSWERS TO DEFENDANTS' INTERROGATORIES TO ALL PLAINTIFFS AS TO THE ALLEGATION OF HORIZONTAL PRICE-FIXING CONSPIRACY, a copy of which is attached hereto and served upon you herewith.

Date: May 30, 1975.

LEE A. FREEMAN, JR.
Liaison Counsel for Plaintiffs

FREEMAN, FREEMAN & SALZMAN
One IBM Plaza - Suite 3200
Chicago, Illinois 60611
(312) 467-6540

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN RE:	:	M.D.L. DOCKET NO. 45
MASTER KEY ANTITRUST LITIGATION	:	All Cases

SUPPLEMENTAL ANSWERS TO DEFENDANTS' INTERROGATORIES TO ALL PLAINTIFFS AS TO THE ALLEGATION OF HORIZONTAL PRICE-FIXING CONSPIRACY

Plaintiffs, by their attorneys, hereby supplement the previously filed answers to the above captioned interrogatories. Plaintiffs reserve the right to correct, amend and supplement these answers.

Interrogatory No. 1:

Is it your contention or will it be your contention at trial that any two or more defendants agreed, combined or conspired among themselves to fix, list or book or net prices for master key systems and/or builders hardware?

Answer: Yes.

Interrogatory No. 2:

If the answer to the preceding interrogatory is other than an unqualified negative, set forth with respect to each alleged agreement, combination or conspiracy to fix list or book or net prices for master key systems and/or builders hardware:

(a) the date on which the agreement, combination or conspiracy commenced;

(b) the date on which the agreement, combination or conspiracy ended;

(c) the date and the exact nature and description of the act, deed, transaction or meeting which constituted the first act, deed, transaction or meeting in furtherance of the agreement;

(d) the name of each representative of each defendant who participated in the first act, deed, transaction, or meeting which commenced the agreement, combination or conspiracy;

(e) the description of each item of builders hardware affected by the first such act, deed, transaction or meeting and the amount by which the price of each such item was raised as a result of such act, deed, transaction or meeting;

(f) what you contend or will contend at trial is a competitive price for each item of builders hardware listed in your answer to the preceding interrogatory;

(g) other than the alleged instances set forth on pages 1-5 of PLAINTIFFS' DESIGNATION OF EVIDENCE WITH RESPECT TO TRIAL OF LIABILITY ISSUES, describe every act, deed, transaction or meeting in furtherance of each such agreement, combination or conspiracy, including the date, the location, the names of the participants and the result of such act, deed, transaction or meeting, including the amounts by which the prices of affected items of builders hardware were raised.

Interrogatory No. 3:

Identify each document referring or relating to or constituting each such agreement, combination, conspiracy, act, deed, transaction or meeting.

Supplemental Answer: The defendants, acting through their sales executives, used the American Society of Architectural Hardware Consultants and its local chapters to police and suppress price competition among distributors of hardware manufacturers and hollow metal door manufacturers. The documents relating to these activities include:

Description of Document	Date	Code No.
Minutes of meeting of the New England Chapter, ASAHC	2/12/59	AS-1033
Minutes of meeting of Gold Coast Chapter, ASACH	12/9/61	AS-1126
Secretary's Report, Tri-State Chapter	10/62	AS-1014-15
Minutes of meeting of Empire State Western Chapter, ASAHC	12/16/64	AS-1131-32
Letter from D. J. Gargano of Kramer Hardware to George Merrill of A.S.A.H.C.	9/24/64	AS-1642-43
Letter from G. P. Merrill to D. J. Gargano of Kramer Hardware	10/14/64	AS-1645

Description of Document	Date	Code No.
Telegram from D. Gargano of Kramer Hardware to G. Merrill of ASAHC	10/14/64	AS-1644
Minutes of meeting of Lone Star South Chapter A.H.C.	5/15/65	AS-1078-79
Minutes of regular meeting of Wisconsin Chapter of ASAHC	5/22/68	AS-903-4
Letter from W.A. Mathewson of ASAHC to Lucian A. Childs of Childs and Company	7/24/53	AS-127-29
Excerpt from letter received from Carl S. Bauman, A.H.C. to George Merrill		E-6422
Letter from George Merrill of ASAHC to the Executive Committee	1/25/65	E-6421
Minutes of meeting of New England Chapter of ASAHC	2/9/63	AS-1041-43

Defendant Ilco engaged in a regular exchange of price lists and price information with competing hardware manufacturers. Documents relating to this practice include:

Description of Document	Date	Code No.
Memo from J.H. Walsh, Jr. to C. B. Warren	7/17/69	IL-1099 IL-631
Inter-Office Communication from C.B. Warren of Ilco Corporation to J.H. Walsh, Jr.	10/17/69	IL-7132
Memo from J.H. Walsh, Jr. to E.C. Frish	1/7/70	IL-1103-9
Memo from J.H. Walsh, Jr. to E.C. Frish	3/20/70	IL-1107
Form letter from Ilco Corporation		IL-1111
Memo from J.H. Walsh, Jr. to J.P. Forbes	11/7/68	IL-1496
Memo from John Hurwitch to P.W. Root, G. Wheatley, G. Sargent and A. Steffenberg	8/18/66	Il-G-243
Lockwood Hardware Manufacturing Inter-Office Communication from G. E. Wheatley to J. Hurwitch	8/29/66	Il-G-244
Document titled "MISCELLANEOUS INFORMATION ON SARGENT & CO. (From discussion with one of their top managers)" from S.S. Crissman	12/23/64	IL-1080-82

DATED: May 30, 1975

LEE A. FREEMAN, JR.

TYRONE C. FAHNER

Liaison Counsel for Plaintiffs

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Special Assistant Attorney General

FRANK J. KELLEY
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Assistant Attorney General

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Deputy Attorneys General

UNITED STATED DISTRICT COURT

DISTRICT OF CONNECTICUT

IN RE:	:	M.D.L. DOCKET NO. 45
MASTER KEY ANTITRUST LITIGATION	:	ALL CASES
STATE OF MICHIGAN, et al., Plaintiffs,	:	
v.	:	CIVIL ACTION NO. 14233
EATON, YALE & TOWNE, INC., et al., Defendants.	:	

ANSWER TO FIRST SET OF CONSOLIDAT. INTERROGATORIES TO PLAINTIFF STATE OF MICHIGAN BY ALL DEFENDANTS

The State of Michigan, by its attorneys, hereby submits its answers to the First Set of Consolidated Interrogatories by all Defendants.

Plaintiff reserves the right to correct, amend and supplement these answers as additional information and documents become available.

Interrogatory 1:

State whether you are:

(c) A state or minicipal government, governmental agency, authority, subdivision or other governmental unit and, if so, state:

(i) The type of governmental body, agency, authority, subdivision or unit;

(ii) Each other governmental body of which you are a part or a subdivision;

(iii) The date when you came into existence;

(iv) A description of each of your functions insofar as they relate to the purchase of builders hardware;

(v) The extent of your jurisdiction (e.g., state-wide, county-wide, etc.);

(vi) The identification of each of your past and present members, officers, executives and managing agents with responsibility for the purchase of builders hardware or the planning of any project or installation in which builders hardware is utilized;

(vii) The statutory, executive or other authority under which you exist and function; and

(viii) The address of your principal office and any other place at which you now transact or have transacted your affairs.

Answer to Interrogatory No. 1:

1(c)(i) State of Michigan

1(c)(iv) The State of Michigan, through its officials, describes the type of hardware required and approved. These descriptions are put into the specifications for construction projects.

1(c)(vi) See answer to Interrogatory No. 2.

Interrogatory No. 2:

2. (a) Identify each of your departments, divisions, bureaus, offices or other unit or subdivision which now has or has had responsibility for the purchase of builders hardware;

(b) Identify each person presently or formerly employed by you exercising discretion, making policy, making decisions or participating in the exercise of any of the foregoing functions with respect to the purchase of builders hardware, including but not limited to persons exercising such functions in each department, division, bureau, office or other unit or subdivision identified in your answer to subparagraph (a) of this Interrogatory, together with the dates during which each such person held such position;

(c) Describe the duties and responsibilities with respect to the purchase of builders hardware of each person identified in your answer to subparagraph (b) of this Interrogatory; and

(d) Set forth an organization chart or diagram reflecting the matters contained in your answers to subparagraphs (a) and (b) of this Interrogatory.

Answer to Interrogatory No. 2:

2(a) and (b) Persons having responsibility for the planning and construction of projects in which builders' hardware is used.

Department of Management and Budget
Dr. Gerald Miller, Director
Steven T. Mason Building
Lansing, Michigan 48913

Purchasing Division
Frank Pennoni, Director
Steven T. Mason Building
Lansing, Michigan 48913

Bureau of Facilities
Almon J. Durkee, Director
Steven T. Mason Building
Lansing, Michigan 48913

Construction Division
William C. Roege, Director
Steven T. Mason Building
Lansing, Michigan 48913

Design Division
Ralph K. Seeley, Director
Steven T. Mason Building
Lansing, Michigan 48913

The above-named individuals and departments superintend all State of Michigan public construction with the exception of construction by or in connection with the following state universities:

1. University of Michigan
2. Michigan State University
3. Eastern Michigan University
4. Wayne State University
5. Oakland University

The five above-named institutions have their own staff which contract for and superintend all construction by and at said institutions.

2(d) See attached organization chart of the State of Michigan - Department of Management and Budget.

Interrogatory No. 3:

3. State whether, during the period covered by these Interrogatories, you purchased builders' hardware directly from any defendant, and if your answer is in the affirmative, state:

(a) The year and the quarter in which such purchase was made;

(b) The identity of the defendant from whom you purchased;

(c) The purchase order number, file number, and any other number or symbol assigned to identify the purchase or contract to purchase;

(d) The identification of the items of builders' hardware purchased.

Answer to Interrogatory No. 3:

No.

Interrogatory No. 4:

4. State whether, during the period covered by these Interrogatories, you purchased builders' hardware from any other supplier, and if your answer is in the affirmative, state as to each purchase:

(a) The year and quarter in which each such purchase was made;

(b) The identity of the supplier from whom you purchased;

(c) The identification of the items of builders' hardware purchased;

(d) The brand name or brand names of each of the items of builders' hardware purchased;

(e) The purchase order number, file number, and any other number or symbol assigned to identify the purchase or contract to purchase;

(f) Your total order price including any discount or price adjustment provisions and other items and conditions of sale bearing on the price to be paid;

(g) The total price actually paid by you including and specifying any adjustments or changes in price and any credits, rebates or deposit returns, whether or not made at the time of the initial payment;

(h) The number of individual items of each type of builders' hardware (e.g., 200 locksets), specifying where available the total price actually paid for each type of builders' hardware and the unit prices actually paid for each such type;

(i) The manner in which the supplier was selected, whether by sealed bids, quotations, negotiation, or however;

(j) The identity of each person other than the successful supplier who submitted bids or otherwise requested or offered to supply the builders' hardware, stating as to each such person:

(i) The brand name or brand names of each item of builders' hardware offered to be furnished;

(ii) The total amount of the bid;

(iii) The total price for each type of builders' hardware; and

(iv) The unit price for each such type.

Answer to Interrogatory No. 4:

Yes. The State of Michigan purchased builders' hardware through general contractors for installation on public structures and from distributors for repair or replacement purposes.

4(a) and (b) The answers to these Interrogatories are contained in voluminous documents which are available to the defense for examination and/or copying in the office of Plaintiff's counsel, One IBM Plaza, Chicago, Illinois.

Interrogatory No. 6:

6. If, during the period covered by these Interrogatories, you purchased builders' hardware from a defendant, or any other supplier or person, state as to each purchase:

(a) Whether you had a contract with the seller (if a supplier or other person) which fixed the price pursuant to a pre-existing cost-plus or fixed markup arrangement, and if so, state the terms of such agreement, and also state:

(i) The seller thereof and the date of sale;

(ii) The total price paid for the builders' hardware by:

(1) The person who purchased the builders' hardware from the manufacturer or owner of the trademark or trade name, and identify such person;

(2) The person who purchased the builders' hardware from the person identified in your answer to 6(a)(ii)(1) above;

(3) Each other person who, at any time prior to your purchase, had title to or any possessory interest in the builders' hardware, and identify each such person;and

(4) You.

(b) Whether you resold the builders' hardware, and if so, state:

(i) The purchaser thereof and the date of sale;

(ii) The purchase price paid therefor; and

(iii) Whether you had a contract with the buyer which fixed the price pursuant to a pre-existing cost-plus or fixed markup arrangement, and if so, state the terms of such agreement.

(c) Whether you installed the builders' hardware on any building, project or other facility (each of which is generally referred to hereafter as a "structure"), and if so, state:

(i) The name and location of the structure, the identity of the owner of the structure, and the date of installation;

(ii) Your relationship to the owner of the structure or land on which the structure was constructed (e.g., general contractor);

(iii) The manner in which you were selected to install such builders' hardware, whether by sealed bids, quotations, negotiation, or however;

(iv) The total price actually paid to you for the installation of such builders' hardware, including and specifying any adjustments or changes in price and any credits, rebates or deposit returns, whether or not made at the time of the initial payment;

(v) The number of individual items of each type of builders' hardware (e.g., 200 locksets), specifying where available the total price actually paid for each type of builders' hardware and the unit prices actually paid for each such type;

(vi) Whether you had a contract with the purchaser which fixed the price paid to you pursuant to a pre-existing cost-plus or fixed markup arrangement, and if so, state the terms of such agreement; and

(vii) Whether such price for installation of builders' hardware was stated separately from the total price you charged the purchaser for all goods and services supplied by you, and if the answer is in the negative, state the total price you charged the purchaser for all goods and services supplied by you and describe the nature of such goods and services.

Answer to Interrogatory No. 6:

6(a) The State of Michigan selects the general contractor on the basis of submitted sealed bids. The material cost for builder's hardware is included in the general contractor's total material cost, to which is added a percentage markup for overhead and profit. There is no formalized "pre-existing cost-plus or fixed markup arrangement;" however, plaintiff's purchases of builder's hardware from general contractors are functionally equivalent to a cost-plus arrangement. On certain jobs an "allowance" is made for the builder's hardware.

All State of Michigan building project contracts are awarded after competitive and public bidding.

Interrogatory No. 7:

7. Identify by name and location each structure owned by you at the present time or at any time for which these Interrogatories apply in which a master key system was installed, and with respect thereto state:

(a) Whether the structure constituted or included:

(i) Dwelling houses;
(ii) Apartment buildings;

(iii) Office buildings;
(iv) School buildings;
(v) Other buildings or structure of any kind, specifying the kind of structure;

(b) The brand name or brand names of the master key system or component parts thereof installed in the structure;

(c) The identity of the person or persons who made the decision to install such a system;

(d) The identity of the person or persons who prepared the builder's hardware specifications;

(e) The identity of the person or persons who made the decision as to which brand or brands of cylinders and/or locksets would be specified and/or approved;

(f) The identity of the person or persons who made the decision as to which brand or brands of door closers and fire exit bolts would be specified and/or approved;

(g) The brand name or brand names of cylinders and/or locksets which were permitted by the specifications to be provided on said structure;

(h) The brand name or brand names of door closers and fire exit bolts which were permitted by the specifications to be provided on said structure; and

(i) The person who purchased or contracted for the purchase of the master key system or component parts thereof, and the door closers and fire exit bolts thereof, and the relationship of such person to you.

Answer to Interrogatory No. 7:

Plaintiff owns numerous buildings in which master key systems have been installed. See answer to Interrogatory No. 9.

Interrogatory No. 9:

9. If you identified any structure in answer to Interrogatory 7 and you had constructed or caused the structure to be constructed, state as to each such structure:

(a) The name and address of the general contractor for the structure and the date on which construction was completed;

(b) The total cost of the structure to you;

(c) Whether you had a contract with the seller which fixed the price paid by you pursuant to a pre-existing cost-plus or fixed markup arrangement, and if so, state the terms of such agreement;

(d) Whether the cost was broken down so as to set forth separately the price of the master key system or any component part thereof or any of the hardware installed on or in connection with the doors in the structure;

(e) If your answer to (d) above is in the affirmative, state:

(i) The price of the master key system and/or any component part thereof; and

(ii) The price of the hardware installed on or in connection with the doors in the structure; and

(f) Whether the contract price of the structure was determined by public bidding.

Answer to Interrogatory No. 9:

During the years 1950 to 1974, the State of Michigan constructed public buildings or additions thereto listed in Appendix A. Further details requested by the interrogatory are contained in documents that plaintiff will collect and make available pursuant to Rule 33(c).

Interrogatory No. 13:

13. Identify the documents from which the following information can be obtained:

(a) The date when you purchased master key systems or any component part thereof and the price paid therefor;

(b) The date when you purchased items of builder's hardware other than master key systems and the price paid therefor; and

(c) The date when you entered into any agreement for the purchase or construction of a structure on which was installed a master key system or any component part thereof, the price paid for such purchase or construction, and the manner in which the price paid for such purchase or construction was determined.

Answer to Interrogatory No 13:

The underlying documents relating to construction projects on which builder's hardware (including master key systems) was installed and the purchase of builder's hardware (and master key systems) for installation on such projects are in the custody of the architects, business

managers and purchasing agents of the various state agencies and institutions.

Contract folders are available and on file in the Department of Management and Budget, Bureau of Facilities. Records more than five years old are transferred to the State Records Center where they are microfilmed and retained in that form. Arrangement for making these records available to defense counsel for inspection and copying will be made on reasonable notice to plaintiffs' counsel.

LEE A. FREEMAN, JR.

TYRONE C. FAHNER
Liaison Counsel for Plaintiff

FREEMAN, FREEMAN & SALZMAN
One IBM Plaza - Suite 3200
Chicago, Illinois 60611
(312) 467-6540

DATED: August 13, 1975

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

TYRONE C. FAHNER, being duly sworn, deposes and says that he is one of the attorneys for the State of Michigan; that the information set forth in the foregoing answer to first set of consolidated interrogatories to plaintiff state of Michigan by all defendants was compiled by him from construction project records and information provided by employees of Michigan; and that the answers to these interrogatories are true to the best of his own knowledge, information and belief.

TYRONE C. FAHNER

Subscribed and Sworn to before me
this ___ day of August, 1975.

Notary Public

ADMINISTRATIVE SECTION

Director
Deputy Director
2 Secretaries
1 Steno/Receptionist
1 Typist
1 Account Clerk

PROCUREMENT UNIT I

DRUGS, OFFICE EQUIP., PAPER PRINTING

Buyer Exec.
3 Buyers
1 Steno
3 Typists

PROCUREMENT UNIT II

FOOD

Buyer Exec.
2 Buyers
1 Steno
1 Typist

PROCUREMENT UNIT III

VEHICLES, SALVAGE, HIGHWAY MACHINERY, PAINTS

Buyer Exec.
1 Surplus Exec.
2 Buyers
2 Stenos
2 Typists

PROCUREMENT UNIT IV

PLUMBING, ELEC., MAINT. SUPPLIES, CHEMICALS AND CLOTHING

Buyer Exec.
3 Buyers
2 Stenos
2 Typists

PROCUREMENT UNIT V

INSURANCE RISK MGMT
FLEET SAFETY

Buyer Exec.
Fleet Safety Dir.
1 Fleet Safety Officer
2 Stenos

BID AND ORDER ROOM

WRITING BIDS AND PURCHASE ORDERS

Dept. Exec.
4 Typists
1 Mach. Opr.

STANDARDS, TRAFFIC & MATERIAL MGMT. UNIT

Stds. & Materials Mgmt. Exec.
1 Steno

623A

TRAFFIC

Traffic Exec.
Asst. Traffic Mgr.
1 Steno
1 Stores Clerk

STDS. & TESTING

2 Engineers

MATERIAL MGMT.

Material Mgmt. Supervisor
1 Dept. Exec.
3 Adm. Analysts
1 Steno
1 Stat Clerk

DRUG REPACKAGING PROGRAM

1 Pharmacist
1 Typist
3 Lab. Tech.
1 Acct. Clk.

HUMAN RELATIONS

1 Executive

FEDERAL SURPLUS PROPERTY SECTION

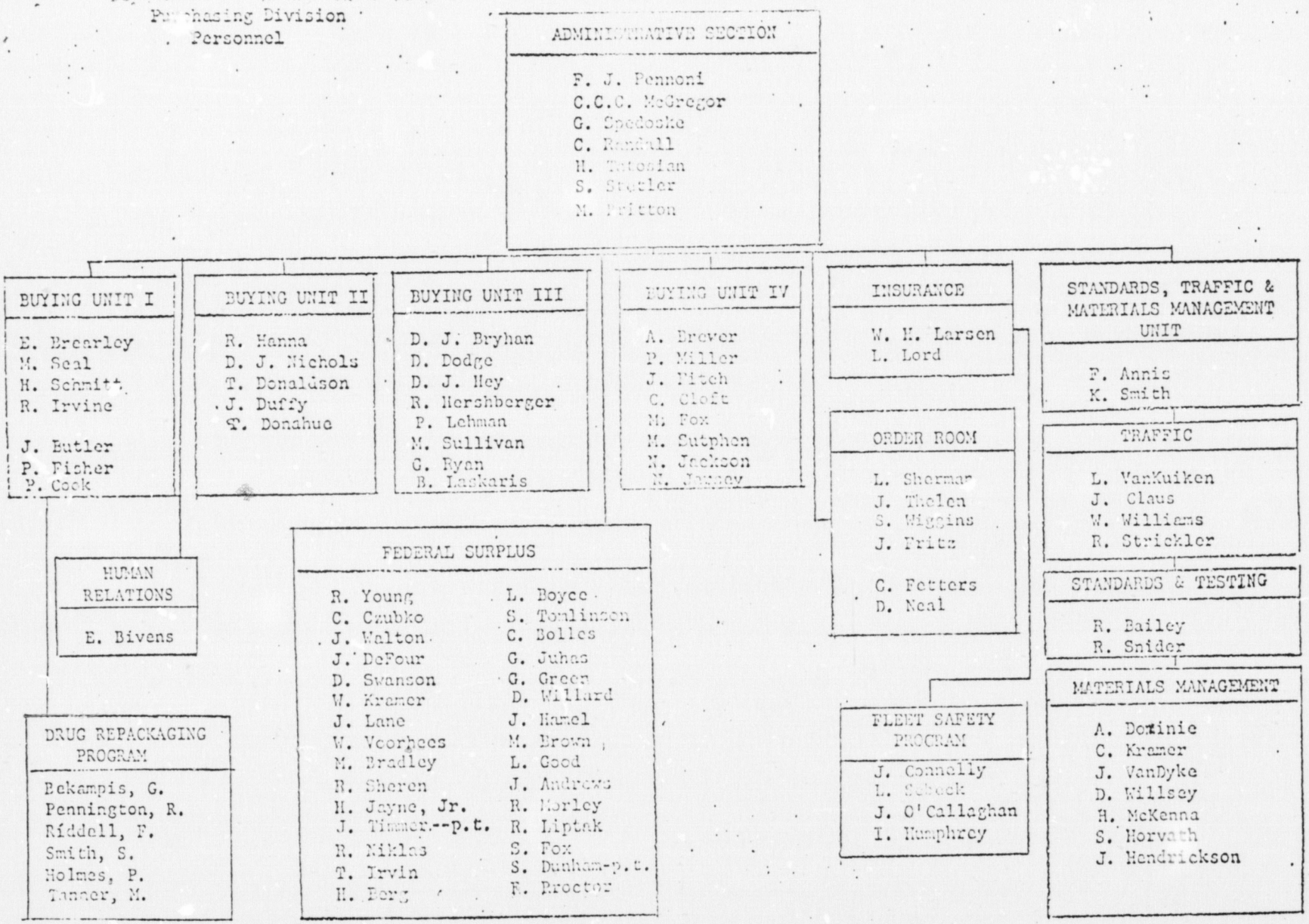
1 Supervisor
1 Asst. Buyer
Lans. Mine Foreman
Cadillac Mine Foreman
Escanaba Mine Foreman
25 Employees

CONTRACT CONTROL

Deputy Dir.
Office

3/26/75
ORGANIZATIONAL CHART - PURCHASING DIVISION

Purchasing Division
Personnel



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MICHIGAN - APPENDIX "A"
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MICHIGAN - APPENDIX "A"

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Municipalities:					
Constantine Township					
Township Hall & Library	1974	Bond Supply Company Kalamazoo	$	$ 95,302	$ 2,306
City of Davison					
Davison Municipal Bldg.	1969	Ittner-Weichmann Co. Flint		229,787	2,500
City of East Grand Rapids					
Municipal Complex	1969	Grand Rapids Screen Co., Inc. Grand Rapids		657,000	3,491
City of Grand Haven					
Public Library & Community Center	1966	Architectural Hardware Co. Muskegan			
Waster Water Treatment Plant	1972				
Vehicle Storage & Maintenance Bldg.	1972	Architectural Hardware Co. Muskegan		315,886	
Police & Fire Station	1974	Architectural Hardware Co. Muskegan			

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Municipalities (cont.):					
City of Keego Harbor					
New Municipal Building	1966	Russell Hardware	$	$ 50,520	$
City of Lathrup Village					
Municipal Building	1973	Tupper Farmington		478,728	8,112
City of Madison Heights					
City Hall	1964	Detroit Sterling Hardware Co. Detroit		477,983	4,050
Library	1964	Detroit Sterling Hardware Co. Detroit		264,383	9,600
Police Station	1969	Detroit Sterling Hardware Co. Detroit		429,787	4,300
Senior Citizen Recreation Center	Present			316,682	3,397
City of Muskegon					
Muskegon Mall (New)	Present	Architectural Hardware Company Muskegon		1,804,014	4,400
City Hall (New)	1973	Architectural Hardware Company Muskegon		917,995	

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Municipalities (cont.):					
City of Norton Shores					
Fire Station #1	1964		$	$	$
Garage Addition #2	1971	S.A. Morman & Co. Grand Rapids		7,080	31
Branch Library	1974	Architectural Hardware Co. Muskegon		296,092	1,300
Mona Lake Park Pavilion	Not completed	Architectural Hardware Co. Muskegon		64,303	2,598
City of South Haven					
City Hall	1974	Bond Supply Co. Kalamazoo		[illegible]165	5,856
City of Three Rivers					
Municipal Building	1970	Southwest		457,000	
City of Warren					
Transfer Station	1971			282,490	
Water Division Garage	1973	Tupper Association, Inc. St. Clair Shores, Mi.		399,919	3,100

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ICHIGAN - APPENDIX "A"

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Counties:					
Allegan County Allegan, Mi.			$	$	$
Court House & Jail	1963			850,719	17,840 (incl. hollow metal doors)
Medical Care Facility	1972	Architectural Building Products Kalamazoo		747,798	4,753
County Office Building	1974				
Cheboygan County Cheboygan, Mi.					
County Building	1969	Detroit Sterling Hardware Co. Detroit			18,000
Genesee County Flint, Mi.					
County Gov't. Center (Phase I & II)	1970	Ittner-Wiechmann Co. Flint		3,597,703	49,158
County Gov't. Center (Phase III)	1971	Ittner-Wiechmann Co. Flint		2,026,855	10,500
Huron County Bad Axe, Mi.					
County Detention Building	1953	Allen Supply Co. Saginaw		124,300	
Court House	1968	Sterling Doorware Co. Lansing		1,221,307	20,865

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Counties (cont.)					
Leelanau County Leland, Mi.					
County Jail	1959	S.A. Morman & Co.	$	$ 72,250	$
County Infirmary	1961	S.A. Morman & Co.		80,935	1,716
County Courthouse	1966	Grand Rapids Screen Co., Inc. Grand Rapids		155,258	2,025
Luce County Newberry, Mi.					
County-Village Government Building	1975	Lynch Acoustical & Specialties Co. Traverse City		591,841	6,000
Ogemaw County West Branch, Mi.					
New Courthouse	1976	Detroit Sterling Hardware Co. Detroit		2,108,000	21,216
St. Joseph County Centreville, Mi.					
Social Service Building	1972	Butler Manufacturing Co. Galesburg, Illinois		97,000	350
New Courts Building	(not completed)	Bond Supply Co. Kalamazoo		827,327	8,900

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Housing Commissions					
Alpena Housing Comm'n Alpena, Mi.					
Riverview Apartments	1970	Russell Hardware Co. Birmingham	$	$	$
Coldwater Housing Comm'n Coldwater, Mi.					
Englewood Elderly Housing	1968	Southwest Sterling Supply Co. Kalamazoo		1,271,492	6,695
Corunna City Building Authority, Corunna, Mi.					
New Municipal Building	1969			101,335	1,300
Highland Park Housing Comm'n Highland Park, Mi.					
Downes Manor	1974	Herald Wholesale, Inc. Oak Park		2,000,000	20,000
Saginaw Housing Comm'n Saginaw, Mi.					
Low Rent Housing Project	1955			1,892,400	
Low Rent Housing Project	1960	C.P. Supply Saginaw		1,417,986	6,350
Sault Ste. Marie Housing Comm'n Sault Ste. Marie, Mi.					
Senior Housing	1965	La Force Builders Hardware Green Bay, Wisconsin		1,198,261	9,975
Low Income Housing	1966	Eyre Lumber Co. Midland		1,434,419	6,525

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Housing Commissions (cont.):					
South Haven Housing Comm'n South Haven, Mi.					
Fed. Public Housing	1970		$	$ 812,561	$
Harbor View Apts.	1971	Young Brothers & Daley Lansing, Mi.		475,850	
Sturgis Housing Commission Sturgis, Mi.					
Maple Towers Apartments for the Elderly	1969	The Vicon Supply Co. Toledo, Oh.		963,063	12,447 (incl. both accessories)

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts:					
Almont Community Schools Almont, Mi.					
Elementary School Add'n	1953		$	$ 106,858	$
Elementary & High School Add'n	1956	Detroit Sterling Hardware Co. Detroit		182,529	3,288
Elementary & High School Add'n	1967	Detroit Sterling Hardware Co. Detroit		457,123	10,839
Elementary Relocatable Modular Six Classroom Unit	1970	Detroit Sterling Hardware Co. Detroit		91,962	
Four-Classroom Addition to 1970 Modular Unit	1973	Detroit Sterling Hardware Co. Detroit		57,494	
Alpena Public Schools Alpena, Mi.					
Winks Elementary School	1951				
Gordon Elementary School	1951				
Alpena High School - Cafeteria Add'n	1952			119,867	1,600
Alpena High School - Addition #3	1952			166,912	2,000

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Alpena Public Schools (cont.) Alpena, Mi.					
Alpena High School - Addition #1 (Gym)	1952		$	$ 376,635	$ 4,900
Alpena High School - Music Wing	1953			170,113	1,300
Ella White Elementary School	1953			381,246	6,000
Wilson Elementary School	1956				
Ella White Elementary School - Add'n #1	1956			146,799	1,100
Alpena High School - Music Building	1957			60,028	1,400
Besser Elementary School	1957				4,500
Ossineke Elementary School	1958				
Sanborn School Add'n	1959				1,800
Gordon Elementary School Add'n	1959				200
Wilson Elementary School Add'n	1959				450
Long Rapids School	1959				3,000

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Alpena Public Schools (cont.) Alpena, Mi.					
Sanborn Elementary School	1959		$	$	$
Green Elementary School	1960				3,300
Hinks Elementary School - Add'n	1960				500
Maple Ridge School	1960				3,300
Ella White Elementary School Addition #2	1961			106,020	2,267
Alpena High School - Stair Enclosures	1962			33,250	
Alpena High School - 2nd Floor Add'n	1962			68,991	500
Alpena High School - Swimming Pool	1963			104,343	
Alpena High School - Portable Classrooms (6)	1964			59,532	600
Besser Elementary School conversion to Junior High School	1965	Morley Bros. Saginaw		206,300	5,550

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Alpena Public Schools (cont.) Alpena, Mi.					
Besser Museum	1966	Morley Bros. Saginaw	$	$ 453,130	$ 5,000
Gordon Elementary School - Addition #2	1966			70,958	2,000
Hinks Elementary School - Addition	1966			75,031	2,000
Sanborn Elementary School - Addition	1966			61,843	1,800
Lincoln Elementary School - Addition	1967			149,374	2,957
Oxbow School	1968	Morley Bros. Saginaw		255,522	5,590
Long Rapids School - Addition	1968			52,675	1,392
Green Elementary School - Addition	1968			51,362	1,260
Maple Ridge Elementary School - Addition	1968			52,096	900
Alpena Sr. High School	1968			3,027,710	35,000

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Alpena Public Schools (cont.) Alpena, Mi.					
Sunset Elementary School	1968		$	$ 308,010	$ 5,450
Bedford Public Schools Temperance, Mi.					
Bedford School District #10 - Fractional Add'n #1	1951			320,855	5,000
Bedford School District #10 - Franctional Add'n #2	1953			125,331	3,500
Bedford Jr. High School	1955			159,995	5,000
Bedford Jr. High School - Add'n #1	1958			197,500	6,000
Elementary School Building	1959			166,342	5,000
Bedford School District #10 - Add'n #3; and Elementary School - Add'n #1	1960			216,705	6,500
Jackman Road Elementary	1961	Ranger Supply Co. Detroit		119,600	3,500
Jackman Road Elementary Add'n #1	1963	Ranger Supply Co. Detroit		331,921	10,000

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MICHIGAN - APPENDIX "A"

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Bedford Public Schools (cont.) Temperance, Mi.					
Bedford Senior High School	1965	Krausquin-Dietrickson, Inc. Toledo, Ohio	$	$ 1,325,148	$
Bedford Junior High School	1970	Vicon Supply Company Toledo, Ohio		1,487,400	
Smith Road Elementary School	1970	Vicon Supply Company Toledo, Ohio		639,849	
Bus Garage	1970	Vicon Supply Company Toledo, Ohio		129,106	
Jackman Road Elementary, Central Elementary, and Douglas Road Elementary School Additions	1970	Vicon Supply Company Toledo, Ohio		189,675	
Belding Area Schools Belding, Mi.					
Gratten Elementary School - Add'n	1974	S.A. Morman & Co. Grand Rapids, Mi.		344,730 (incl. M&E)	5,900
Ellis School - Add'n	1974	S.A. Morman & Co. Grand Rapids, Mi.		298,340 (incl. M&E)	5,000
Orleans Elementary School - Add'n	1974	S.A. Morman & Co. Grand Rapids, Mi.		355,480 (incl. M&E)	6,000

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MICHIGAN - APPENDIX "A"

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Belding Area Schools Belding, Mi.					
Orchard Hills Elementary School - New	1975	S.A. Morman & Co. Grand Rapids, Mi.	$	$ 680,830 (incl. M&E)	9,300
Belding High School - New	1976	S.A. Morman & Co. Grand Rapids, Mi.		3,006,826 (incl. M&E)	41,202
Buena Vista School District Saginaw, Mi.					
Ricker Junior High School	1956	Allen Supply Co. Saginaw, Mi.		472,939	4,500
Henry A. Doerr School	1958	Allen Supply Co. Saginaw, Mi.		203,802	3,025
Buena Vista High School	1959	Allen Supply Co. Saginaw, Mi.		755,800	13,750
Henry A. Doerr School - Add'n	1960	Allen Supply Co. Saginaw, Mi.		56,800	500
Towerlodge School (now Paul L. Koeltzow School)	1961	Allen Supply Co. Saginaw, Mi.		182,200	7,579
Towerlodge School - Add'n	1964	Allen Supply Co. Saginaw, Mi.		87,690	1,975
BVHS Vocational Center (now Joseph Barr Vocational Center) - Add'n & Alterations	1964	Allen Supply Co. Saginaw		233,336	1,500

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Buena Vista School District (cont.) Saginaw, Mi.					
Ricker Elementary School - Multi-Purpose, Offices, Kitchen	1964	Allen Supply Co. Saginaw, Mi.	$	$ 107,809	$ 2,200
Charles F. Brunkow School	1964	Allen Supply Co. Saginaw, Mi.		317,711	8,407
BVHS Vocational Center (now Joseph Barr Vocational Center) - Athletic Field Facilities	1964	Allen Supply Co. Saginaw, [illegible]		56,800	425
Bus Garage	1965	Allen Supply Co. Saginaw, Mi.		43,500	150
Administration Building	1965	Allen Supply Co. Saginaw, Mi.		127,300	1,071
Ricker Junior High School - Add'n	1966	Allen Supply Co. Saginaw, Mi.		321,756	6,775
BVHS Vocational Center - Office Remodeling	1966	Allen Supply Co. Saginaw, Mi.		14,778	375
Bus Garage - Add'n	1966	Allen Supply Co. Saginaw, Mi.		35,430	
Archer A. Claytor School	1969	Allen Supply Co. Saginaw, Mi.		551,175	14,450
Administration Building - Remodeling	1970	Allen Supply Co. Saginaw, Mi.		27,446	205

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Buena Vista School District (cont.) Saginaw, Mi.					
BVHS Vocational Center (now Joseph Barr Vocational Center) - Arts Bulding & Shop Area Remodeling	1971	Allen Supply Co. Saginaw, Mi.	$	$ 254,545	$ 4,058
BVHS Vocational Center (now Joseph Barr Vocational Center) - Courtyard Remodeling	1972	Allen Supply Co. Saginaw, Mi.		49,530	900
BVHS Vocational Center - Classroom Remodeling	1974	Allen Supply Co. Saginaw, Mi.		10,555	635
Star School (now Herman A. Hallman Educational Center) - Offices	1975	Allen Supply Co. Saginaw, Mi.		27,796	120
Byron Area Schools Byron, Mi.					
Byron Middle School	1974	Construction Products Div. of Morley Bros. Madison Heights, Mi.		1,074,936	19,295
Caledonia Community Schools Caledonia, Mi.					
Senior High School	1961			633,660	
Kettle Lake Elementary	1965			550,000	

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Camden-Frontier School Camden, Mi.					
Agriculture Shop Add'n	1975	Shively-Bouma Jackson, Mi.	$	$ 73,356	$ 850
Caro Community Schools Caro, Mi.					
Caro High School - Add'n	1965	Builders Hardware & Supply Co. Saginaw, Mi.		150,662	1,946
McComb Elementary School	1967	Builders Hardware & Supply Co. Saginaw, Mi.		586,252	7,659
Caro High School - Add'n	1974	Ittner-Wiechmann Co. Saginaw, Mi.		86,805	976
Cass City Public Schools Cass City, Mi.					
Cass City High School	1968	Flint Builders Hardware Flint, Mi.		995,813	14,942
Charlevoix Public Schools Charlevoix, Mi.					
Charlevoix High School	1961	Meyers Hardware Co. Grand Rapids, Mi.		603,062	11,388
Charlevoix Elementary	1969			1,361,300	

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Clawson Public Schools Clawson, Mi.					
Kenwood Elementary School - Add'n	1950		$	$ 53,229	$ 935
Kenwood Elementary School - Add'n	1951	Contractor's Hardware Co.		42,995	800
Lois F. MacDonald Elementary School	1952	Charles L. Holmes Co. Detroit, Mi.		63,142	1,135
Clawson High School	1953	Russell Hardware Birmingham, Mi.		525,117	6,275
Lois F. MacDonald School - Add'n	1957	Russell Hardware Birmingham, Mi.		74,162	870
James F. Hunter Elementary School	1957	Russell Hardware Birmingham, Mi.		127,538	2,210
Kenwood Elementary School - Add'n	1957	Russell Hardware Birmingham, Mi.		195,899	2,530
Parkland Elementary School	1958	Russell Hardware Birmingham, Mi.		133,483	240
Paul A. Schalm Elementary School	1959	Russell Hardware Birmingham, Mi.		350,905	7,237
Paul A. Schalm School - Add'n	1964	Russell Hardware Birmingham, Mi.		162,435	5,100

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Clawson Public Schools (cont.) Clawson, Mi.					
Lois F. MacDonald Elementary School - Add'n	1964	Russell Hardware Birmingham, Mi.	$	$ 36,190	$ 700
Kenwood Elementary School - Add'n	1964	Russell Hardware Birmingham, Mi.		41,298	1,175
Clawson Junior High School	1965	Russell Hardware Birmingham, Mi.		442,080	12,250
Clawson High School - Add'n	1966	Russell Hardware Birmingham, Mi.		407,089	11,075
Kenwood Elementary School - Add'n	1968	Russell Hardware Birmingham, Mi.		112,243	1,425
James F. Hunter Elementary School - Add'n	1968	Russell Hardware Birmingham, Mi.		191,310	2,860
Lois F. MacDonald Elementary School - Add'n	1968	Russell Hardware Birmingham, Mi.		196,127	2,270
Parkland Elementary School - Add'n	1968	Russell Hardware Birmingham, Mi.		254,348	3,950
Lyle E. Baker Elementary School	1969	Russell Hardware Birmingham, Mi.		839,682	25,000
Clawson High School - Add'n	1969	Russell Hardware Birmingham, Mi.		923,787	8,900

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Coopersville Area Public Schools, Coopersville, Mi.					
Elementary School - Add'n	1970	S.A. Morman & Co. Grand Rapids, Mi.	$	$ 246,328	$ 7,300
K-8 - Add'n	1975	S.A. Morman & Co. Grand Rapids, Mi.		753,295	8,600
East Lansing School District East Lansing, Mi.					
Hannah Middle School - Additions & Alterations	1969	Granger Brothers Construction, Inc. Lansing, Mi.		1,377,888	
Farmington Public Schools Farmington, Mi.					
Bond Elementary School - Add'n #2	1952			158,040	
Middlebelt Elementary School - Add'n #1	1952			150,936	
Kenbrook Elementary School - Add'n #1	1959			79,160	
Farmington High School	1953			608,480	
Farmington High School - Add'n #1	1955			218,400	
Eagle Elementary School	1955	Detroit Sterling Hardware Detroit, Mi.			

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Farmington Public Schools (cont.) Farmington, Mi.					
Shiawassee Elementary School	1955	Detroit Sterling Hardware Detroit, Mi.	$	$ 305,104	$
Gill Elementary School	1955	Detroit Sterling Hardware Detroit, Mi.		247,438	
Eagle Elementary School - Add'n	1955			98,500	
O.E. Dunckel Jr. High School	1957	Holmes Hardware		604,721	
Wm. Grace Elementary School	1957	Detroit Sterling Hardware Detroit, Mi.		317,000	
Woodlale Elementary School	1958	Detroit Sterling Hardware Detroit, Mi.		333,900	4,950
Gill Elementary School - Add'n #1	1958			73,644	
Bond Elementary School - Add'n #3	1958			127,636	
Kenbrook Elementary School	1958			317,000	
Farmington Jr. High School - Add'n #2	1958	Russell Hardware Birmingham, Mi.			

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Farmington Public Schools (cont.) Farmington, Mi.					
Middlebelt Elementary School - Add'n #2	1958		$	$ 121,918	$
Shiawassee Elementary School - Add'n #1	1958			81,699	
Eagle Elementary School - Add'n #2	1958			74,900	
Cloverdale Elementary School	1958	Detroit Sterling Hardware Detroit, Mi.		290,000	
Ten Mile Elementary School - Add'n #2	1958			118,864	
Farmington High School - Add'n #2	1958	Draper Building Supply Hazel Park, Mi.		368,195	
Alameda Elementary School	1959			212,200	
Longacre Elementary School	1959			216,665	
Administration Service Bldg.	1959	Detroit Sterling Hardware Detroit, Mi.		96,370	
Farmington Jr. High School - Rehabilitation	1959	Russell Hardware Co. Birmingham, Mi.		141,127	

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Farmington Public Schools (cont.) Farmington, Mi.					
Wm. Grace Elementary School - Add'n #1	1960		$	$ 103,300	$
O.E. Duncker Jr. High School - Add'n #1	1960			204,032	
Wooddale Elementary School - Add'n #1	1961			66,150	
North Farmington High School	1961	Detroit Sterling Hardware Detroit, Mi.		897,687	14,000
Beechview Elementary School	1961	Detroit Sterling Hardware Detroit, Mi.		320,287	
Flanders Elementary School	1962	Detroit Sterling Hardware Detroit, Mi.		275,970	
East Jr. High School	1963	Detroit Sterling Hardware Detroit, Mi.		413,894	18,200
Highmeadow Elementary School	1963	Detroit Sterling Hardware Detroit, Mi.		292,481	8,546
Eagle Elementary School - Add'n #3	1964			149,545	
Gill Elementary School - Add'n #2	1964	Detroit Sterling Hardware Detroit, Mi.		167,096	

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Farmington Public Schools (cont.) Farmington, Mi.					
North Farmington High School - Add'n #1	1965		$	$ 441,055	$ 8,800
Maintenance Building	1965			56,250	
East Jr. High School - Add'n #1	1965			373,785	5,700
Bond Elementary School - Add'n #4	1965	Detroit Sterling Hardware Detroit, Mi.		130,496	5,775
Larkshire Elementary School	1965	Detroit Sterling Hardware Detroit, Mi.		407,584	9,840
Middlebelt Elementary School - Add'n #3	1966	Detroit Sterling Hardware Detroit, Mi.		107,235	
Fairview Elementary School	1966	Detroit Sterling Hardware Detroit, Mi.		346,770	8,624
Administration Building - Add'n #1	1967	Detroit Sterling Hardware Detroit, Mi.		209,194	2,777
Forest Elementary School	1967			394,427	
Power Jr. High School	1968	Detroit Sterling Hardware Detroit, Mi.		792,297	
Farmington High School - Add'n #3	1969	Detroit Sterling Hardware Detroit, Mi.		1,533,183	25,000

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Farmington Public Schools (cont.) Farmington, Mi.					
North Farmington High School - Add'n #2	1969	Detroit Sterling Hardware Detroit, Mi.	$	$ 707,321	$ 13,000
Harrison High School	1970	Detroit Sterling Hardware Detroit, Mi.		5,866,567	51,000
Wm. Grace Elementary School - Add'n #2	1969	Detroit Sterling Hardware Detroit, Mi.		58,918	1,950
Wood Creek Elementary School	1970	Detroit Sterling Hardware Detroit, Mi.		702,274	20,000
Eagle Elementary School - Fire Renovation	1970			158,606	
Shiawassee Elementary School - Add'n #2	1971	Detroit Sterling Hardware Detroit, Mi.		242,435	3,520
Longacre Elementary School - Add'n #1	1971	Detroit Sterling Hardware Detroit, Mi.		84,084	
Larkshire Elementary School - Add'n #1	1971			138,424	
Gill Elementary School - Add'n #3	1972	Detroit Sterling Hardware Detroit, Mi.		84,615	615
Wooddale Elementary School - Add'n #2	1972	Detroit Sterling Hardware Detroit, Mi.		84,615	615

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Farmington Public Schools (cont.) Farmington, Mi.					
Middlebelt Elementary School - Add'n #4	1972	Detroit Sterling Hardware Detroit, Mi.	$	$ 84,615	$ 615
Warner Jr. High School	1973	Detroit Sterling Hardware Detroit, Mi.		2,642,205	31,179
Flanders Elementary School - Add'n #1	1974	Detroit Door & Hardware Madison Heights, Mi.		68,569	1,355
Kenbrook Elementary School - Add'n #2	1974	Detroit Door & Hardware Madison Heights, Mi.		68,569	1,645
Fitzgerald Public Schools Warren, Mi.					
Fitzgerald High School - Add'n	1952	Wolverine Hardware Detroit, Mi.		402,532	4,729
Mound Park Elementary - Add'n	1953	Contractors Hardware Co. Detroit, Mi.		365,306	5,250
Fitzgerald High School - Bus Garage Add'n & Field House Alteration	1953	Wm. R. Burns Hardware Detroit		40,340	390

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Fitzgerald Public Schools (cont.) Warren, Mi.					
Neigebaur Elementary School - Add'n	1954	Wolverine Hardware Co. Detroit, Mi.	$	$ 313,248	$ 5,085
Fitzgerald High School - Add'n	1955	Rayl Co. Detroit, Mi.		865,000	15,495
Schofield Elementary School	1955	Construction Hardware Co. Detroit, Mi.		855,000	14,214
Fitzgerald High School - Add'n	1956	Contractors Hardware Co. Detroit, Mi.		1,136,360	16,335
Westview Elementary School	1959	Russell Hardware Co. Birmingham, Mi.		964,244	11,700
Fitzgerald High School - Add'n	1965	Gamalski Hardware Warren, Mi.		215,933	2,445
Fitzgerald High School - Wood Shop & Machine Shop	1965			26,000	1,756
Fitzgerald High School - Auditorium	1966	Commercial Hardware, Inc. Detroit, Mi.		1,000,000	14,976
Fitzgerald High School - Auto-Power Mechanics Bldg.	1969			143,895	
Chatterton Jr. High School	1970	A.L. Dammon Co. Detroit, Mi.		3,045,000	28,518

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Fitzgerald Public Schools (cont.) Warren, Mi.					
Administration Building Offices	1971	Gervais & Associates Detroit, Mi.	$	$ 189,000	$ 2,750
Frankenmuth School District Frankenmuth, Mi.					
Frankenmuth High School Add'n	(not completed)	Detroit Sterling Hardware Co. Detroit, Mi.		1,091,856	31,727
Grass Lake Community Schools Grass Lake, Mi.					
Geo. Long Elementary School	1955	Detroit Sterling Hardware Co. Detroit, Mi.		219,333	3,500
Grass Lake Jr./Sr. High School	1958	University School Equipment Co. Ann Arbor, Mi.		454,427	750
Grosse Pointe Public Schools Grosse Ponte, Mi.					
Grosse Pointe High School - North	1968	John H. Damman Company Detroit, Mi.			

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Harper Creek Community Schools Battle Creek, Mi.					
Harper Creek Jr. High School	1954		$	$ 297,770	$ 5,825
Beadle Lake Elementary School and Sr. High School	1958			837,858	58,400 (incl. millwork & rough carpentry)
Harper Creek High School	1960			75,500	1,700
Wattles Park Elementary School and Sonoma Elementary School	1962			445,956	12,600
Wattles Park Jr. High School	1963			431,223	12,600
Beadle Lake & Wattles Park Elementary, and Harper Creek Jr. & Sr. High Schools - Add'ns	1968			426,090	34,200 (incl. millwork)
Kelloggsville Public Schools Grand Rapids, Mi.					
High School - Add'n	1970	Meyers Hardware Grand Rapids, Mi.		969,760	8,125

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Kentwood Public Schools Grand Rapids, Mi.					
Kentwood Intermediate School (Valleywood Middle School)	1967	Meyers Hardware Grand Rapids, Mi.	$	$ 832,891	$ 12,990
Crestwood High School	1967	Meyers Hardware Grand Rapids, Mi.			3,350
Administration Building	1969	Page Hardware Co. Grand Rapids, Mi.		35,025	155
East Kentwood High School	1971	Page Hardware Co. Grand Rapids, Mi.		4,139,815	28,330
Bowen, Brookwood, Glenwood, Meadowlawn & Southwood Elementary School - Additions	1971	Page Hardware Co. Grand Rapids, Mi.		480,224	9,175
Townline School - Add'n	(Present)	Grand Rapids Screen Grand Rapids, Mi.		182,000	2,979
Brookwood School - Add'n	(Present)	Page Hardware Co. Grand Rapids, Mi.		89,559	2,219
East Kentwood High School - Add'n	(Present)	Page Hardware Co. Grand Rapids, Mi.		3,080,554	4,550

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Lake Shore Public Schools St. Clair Shores, Mi.					
Adrian Lingemann Elementary School	1965	Detroit Sterling Hardware Detroit, Mi.	$	$ 328,572	$ 14,680
James Rodgers Jr. High School	1966	Detroit Sterling Hardware Detroit, Mi.		555,316	17,785
Lake Shore High School - Add'n	1967	Commercial Hardware Co. Detroit, Mi.		882,476	12,780
J.F. Kennedy Jr. High School	1968	Sterling Hardware Co. Detroit, Mi.		1,945,658	24,560
James Rodgers Jr. High School and L'Anse Elementary School - Add'ns	1968	Detroit Sterling Hardware Detroit, Mi.		372,889	4,878
Lake Shore High School - Add'n	1968	Commercial Hardware Co. Detroit, Mi.		502,446	7,680
Lake Shore High School - Add'n	1969	Commercial Hardware Co. Detroit, Mi.		307,561	3,424
Lake Shore High School - Auditorium	1971	Boyle-Eisen Associates, Inc. Birmingham, Mi.		1,119,118	8,455

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
The Lamphere Schools Madison Heights, Mi.					
Martha Campbell Elementary School	1965	A.L. Damman Troy, Mi.	$	$ 221,084	$ 5,000
Page Jr. High School - Add'n	1966	Detroit Sterling Co. Detroit, Mi.		638,329	10,620
Hiller Elementary School	1970	A.L. Damman Detroit, Mi.		711,397	9,100
East Elementary School - Add'ns & Remodeling	1970	Commercial Hardware, Inc. Detroit, Mi.		67,383	700
Lessenger Elementary School - Add'ns & Remodeling	1970	Commercial Hardware, Inc. Detroit, Mi.		96,588	2,000
Simonds Elementary School - Add'ns & Remodeling	1970	Commercial Hardware, Inc. Detroit, Mi.		71,250	2,600
Edmonson Elementary School - Add'ns & Remodeling	1971	Boyle-Eisen, Assoc. Royal Oak, Mi.		166,826	2,494
Sixma Elementary School - Add'ns & Remodeling	1971	Boyle-Eisen, Assoc. Royal Oak, Mi.		125,710	1,713
Page Jr. High School - Add'n & Remodeling	1972	Detroit Sterling Co. Detroit, Mi.		1,958,594	16,500
Lamphere High School - Add'n & Remodeling	1972	Commercial Hardware Co. Detroit, Mi.		4,845,072	52,000

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Maple Valley Schools Vermontville, Mi.					
Maple Valley Jr./Sr. High School and Additions to Maplewood & Fuller St. Elementary Schools	1966	Meyers Hardware Company Grand Rapids, Mi.	$	$ 832,053	$ 22,950
Mason Public Schools Mason, Mi.					
Mason Sr. High School	1959	Builders' Hardware Co. East Lansing, Mi.			10,800
Alaiedon Elementary School - Add'n	1964	Builders' Hardware Co. East Lansing, Mi.		73,480	700
Aurelius Elementary School		Builders' Hardware Co. East Lansing, Mi.		186,800	3,800
Mason High School - Swimming Pool	1965	Builders' Hardware Co. East Lansing, Mi.		138,400	1,700
Mason High School - Add'n	1966	Builders' Hardware Co. East Lansing, Mi.		228,184	3,550
Mason Jr. High School - Fire Safety Renovations	1968	Builders' Hardware Co. East Lansing, Mi.		44,331	2,850
Mason Jr. High School -	1968	Sterling Doorware Co. Lansing, Mi.		1,621,018	31,158

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Mason Public Schools Mason, Mi.					
Multi-Purpose Rooms		Sterling Doorware Co. Lansing, Mi.	$	$ 337,300	$ 4,542
Mason High School - Alterations & Add'ns	1974	Sterling Doorware Co. Lansing, Mi.		1,580,283	26,368
Mason High School - Fire Restoration	1973			13,799	210
Morley Stanwood Community Schools Morley, Mi.					
Morley Stanwood High School	1960	S.A. Morman & Co. Grand Rapids, Mi.		587,496	6,700
Morley Stanwood High School - Add'n	1969	S.A. Morman & Co. Grand Rapids, Mi.		269,396	2,372
Mt. Clemens Community School District, Mount Clemens, Mi.					
Christian Clemens Elementary School	1953	T. B. Royle		298,095	
Seminole Hills Elementary School	1953	Detroit Sterling Hardware Detroit, Mi.		246,511	4,500
Seminole Elementary School - Add'n	1954	Detroit Sterling Hardware Detroit, Mi.		133,518	1,488

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Mt. Clemens Community School District (cont.) Mount Clemens, Mi.					
Alexander Macomb School - Add'n	1955	Contractors Hardware Co.	$	$ 186,506	$ 3,500
Washington Elementary/ Jr. High School	1955	Detroit Sterling Hardware Detroit, Mi.		621,453	10,100
Edison Elementary School	1957	Ranger Associates, Inc.		222,802	2,765
Christian Clemens Elementary School - Add'ns	1957	Contractors Hardware		83,184	605
Seminole Hills Elementary School - Add'n #2	1957	A.L. Damman Hardware Detroit, Mi.		159,934	1,800
Alexander Macomb School - Add'n	1958	Contractors Hardware Co.		130,816	2,095
Wilson & Lincoln Elementary Schools - Add'ns	1958	Detroit Sterling Hardware Detroit, Mi.		208,891	1,823
Ingleside Elementary School	1959	Gamalski Hardware		184,933	3,488
Seminole Hills Elementary School - Add'n #3	1959	Gamalski Hardware		263,482	5,382

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Mt. Clemens Community School District (cont.) Mount Clemens, Mi.					
Grant Elementary School	1960	J. H. Freeman Co. Detroit, Mi.	$	$ 225,911	$ 4,537
Westendorf Elementary School	1961	Russell Hardware Birmingham, Mi.		176,745	5,000
Alexander Macomb Jr. High School - Add'n	1963	Russell Hardware Birmingham, Mi.		277,618	5,115 (incl. rough)
Mt. Clemens High School - Remodeling	1967			62,596	2,420
Grant Elementary School - Add'n	1968	J. H. Freeman Co. Detroit, Mi.		141,974	1,747
Mt. Clemens High School - Add'ns	1969	Russell Hardware Birmingham, Mi.		251,603	4,070
Mt. Clemens High School - Add'n	1970	Russell Hardware Birmingham, Mi.		2,333,475	39,920
Christian Clemens Elementary School - Add'n	1970	Detroit Sterling Hardware Detroit, Mi.		226,357	4,619
Mt. Clemens Public Library	1970	A.L. Damman Hardware Detroit, Mi.		900,945	4,460

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Mt. Clemens Community School District (cont.) Mount Clemens, Mi.					
Instructional Materials Center & Maintenance Bldg.	1970	Russell Hardware Birmingham, Mi.	$	$ 201,729	$ 7,300
Mt. Clemens High School - Alterations	1971	Russell Hardware Birmingham, Mi.		31,916	3,685
Washington School - Add'ns	1971	Russell Hardware Birmingham, Mi.		326,494	4,700
Lincoln Elementary School - Add'n	1972	Russell Hardware Birmingham, Mi.		221,714	4,650
Seminole Jr. High School - Add'n	1972	Russell Hardware Birmingham, Mi.		237,246	3,346
Washingtin Jr. High School - Add'n	1972	Russell Hardware Birmingham, Mi.		1[illegible]030	4,430
North Huron Schools Kinde, Mi.					
Kinde Elementary School - Add'n	1954				400
Kinde High School - Add'n	1956			180,000	3,000

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
North Huron Schools (cont.) Kinde, Mi.					
Kinde Elementary School	1965		$	$ 170,000	$
Northwest School District Jackson, Mi.					
663A Northwest Rural Ag. High School	1956			533,406	5,500
Northwest Rural Ag. High School - Add'n	1958			297,884	4,308
Flora List Elementary School	1960	Detroit Sterling Hardware Detroit, Mi.		400,876	7,500
Northwest Administration Bldg.	1960	Detroit Sterling Hardware Detroit, Mi.		63,044	2,000
Parnall Elementary School	1963			624,290	
Northwest High School	1968	Southwest Sterling Supply Co. Kalamazoo, Mi.		1,698,715	35,700
Northwest Jr. High School - Band Room Add'n	1971	Sterling Doorware Co. Lansing, Mi.		29,436	2,950
Northwest Middle School	1972	Sterling Doorware Co. Lansing, Mi.		1,725,173	27,200
Pleasant Lake Elementary School - Add'n	1974	Bond Supply Kalamazoo, Mi.		210,674	1,950

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Oakridge Public Schools Muskegon, Mi.					
Oakridge High School	1965		$	$ 712,000	$ 12,175
Onekama Consolidated Schools					
Onekama High School - Add'n	1961			365,000	
Ontonagon Area Schools Ontonagon, Mi.					
Greenland-Mass Elementary "B", Rockland Elementary "D", and Ontonagon Elementary "C" - School Buildings	1968	Southwest Sterling Supply Co. Kalamazoo, Mi.		386,219	5,443
Ontonagon Area High School - School Building	1968	Rapid Hardware Co. Grand Rapids, Mi.		1,085,104	13,800
Owendale-Gagetown Schools Owendale, Mi.					
Owendale-Gagetown Elementary Schools - Add'ns	1969	Allen Supply Company Saginaw, Mi.		214,967	4,554

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Posen Consolidated School District #9, Posen, Mi.					
Posen Consolidated School	1957		$	$ 251,982	$
Posen Consolidated School - Add'n	1962	Brommyer-Brin Hardware Petoskey, Mi.		90,395	2,077
Ravenna Public Schools Ravenna, Mi.					
Ravenna High School	1960	Meyers Hardware Co. Grand Rapids, Mi.		590,621	11,000
Ravenna High School - Add'n	1970	Meyers Hardware Co. Grand Rapids, Mi.		59,770	884
Ravenna Middle School	1971	Meyers Hardware Co. Grand Rapids, Mi.		1,013,236	14,298
Ravenna Elementary School - Remodeling	1971	Grand Rapids Screen Co. Grand Rapids, Mi.		108,985	4,500
Redford Union Schools Detroit, Mi.					
Stuckey & Bulman Schools - Add'ns	1952			359,611	1,895 (All Hardware)
Stuckey & Bulman Schools - Add'n #2	1953			118,993	1,047 (All Hardware)

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Redford Union Schools (cont.) Detroit, Mi.					
Roosevelt & Keeler Schools Add'ns	1954		$	$ 78,975	$ 1,920
Redford Union Jr. High & Redford Union High Schools	1954			763,000	7,949 (All Hardware)
MacGowan Elementary School	1955			349,000	4,300 (All Hardware)
Redford Union Jr. High, now Redford Union High Schools - Add'ns	1956			492,400	
Beech Road School	1956	Detroit Sterling Hardware Detroit, Mi.		97,500	1,742 (All Hardware)
Stuckey - Add'n #3 and Roosevelt - Add'n #2	1957			151,300	3,000 (All Hardware)
Bulman - Add'n #3 and MacGowan - Add'n #1	1957			282,541	
Keeler Elementary School - Add'n #2	1957			447,744	7,140 (All Hardware)
Volney Smith School - Add'n #1	1958			146,450	4,181 (All Hardware)
Redford Union High School - Add'n 1	1958			595,000	

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Redford Union Schools (cont.) Detroit, Mi.					
Redford Union Jr. High, now Redford Union High Schools - Add'n #2	1958		$	$ 318,900	
Elsmere Pearson Jr. High School	1960				$ 13,000 (All Hardware)
Redford Union Jr. High, now Redford Union High School	1960			59,163	
Westland Elementary School	1961			320,570	12,000 (All Hardware)
Hilbert Jr. High School - Alterations	(Present)				
Reed City Public Schools Reed City, Mi.					
Reed City High School (New) and Existing High School - Remodeling	1963	Meyers Hardware Company Grand Rapids, Mi.		820,500	

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
St. Louis Public Schools St. Louis, Mi.					
Carrie Knause Elementary School	1954		$	$ 136,773	$
Westgate Elementary School	1957			174,367	
Carrie Knause Elementary School - Add'n	1968	Morley Brothers Flint, Mi.		69,849	
State Street Elementary School	1969	Sterling Doorware Company Lansing, Mi.		329,458	5,700
T.S. Nurnberger School	1969	Sterling Doorware Company Lansing, Mi.		914,687	12,637
Sandusky Community Schools Sandusky, Mi.					
Sandusky Community High School	1965	Morley Brothers Saginaw, Mi.		478,260	9,124
Maple Valley Elementary School - Add'n	1973	Ittner-Wiechmann Company Saginaw, Mi.		330,260	6,718
Saugatuck Public Schools Saugatuck, Mi.					
Saugatuck High School	1974	S.A. Morman & Company Grand Rapids, Mi.		1,513,930	16,900

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Suttons Bay Public Schools Suttons Bay, Mi.					
Suttons Bay Educational Institute	1968	S.A. Norman Grand Rapids, Mi.	$	$ 411,083	$ 6,964
Suttons Bay Educational Institute	1975	S.A. Norman Grand Rapids, Mi.		526,136	12,000
669A Trenton Public Schools Trenton, Mi.					
R.C. Hedke Elementary School	1955	Detroit Sterling Hardware Detroit, Mi.			
L.L. Anderson School	1956	Detroit Sterling Hardware Detroit, Mi.		705,900	10,000
Trenton High School - Add'n - East Wing	1957	Contractors Hardware Detroit, Mi.		677,915	7,706
J. H. Foley School	1958	Detroit Sterling Hardware Detroit, Mi.		155,700	1,720
Trenton High School - Add'n - Swimming Pool	1958	Contractors Hardware Detroit, Mi.		152,400	850
C. O. Owen School	1958	Detroit Sterling Hardware Detroit, Mi.			
Trenton High School - Auditorium Addition	1958	Contractors Hardware Detroit, Mi.		337,399	5,600

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Trenton Public Schools (cont.) Trenton, Mi.					
Trenton High School Add'n	1958	Contractors Hardware Co. Detroit, Mi.	$	$ 818,893	$ 14,000
R.C. Hedke Elementary School - Add'n	1959	Detroit Sterling Hardware Detroit, Mi.		154,038	
C.O. Owen School - Add'n	1959	Detroit Sterling Hardware Detroit, Mi.		81,345	2,000
Slocum Truax School - Remodeling	1959			19,875	
J.L. Anderson School - Add'n	1961	Detroit Sterling Hardware Detroit, Mi.		55,220	932
C.O. Owen School - Add'n	1962	Detroit Sterling Hardware Detroit, Mi.		41,872	1,100
Slocum Truax School - Add'n	1964	Detroit Sterling Hardware Detroit, Mi.		541,000	12,800
J.L. Anderson School - Add'n	1964	Detroit Sterling Hardware Detroit, Mi.		81,479	1,000
Trenton High School - Add'n	1964	Contractors Hardware Co. Detroit, Mil.		88,940	2,400
G.E. Strohm School - Add'n	1964	Ranger Associates, Inc.		58,968	1,400

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Trenton Public Schools (cont.) Trenton, Mi.					
Foley Elementary School - Add'n	1965	Detroit Sterling Hardware Detroit, Mi.	$	$ 82,940	$ 1,374
Service Building - Remodeling	1966	Detroit Sterling Hardware Detroit, Mi.		62,065	851
Foley Elementary School - Add'n	1967	John Darman Co. Warren, Mi.		269,870	3,646
Wm. C. Taylor School	1966	John Damaan Co. Warren, Mi.		213,974	2,800
G.E. Strohm School - Add'n	1970	Holmes Hardware Co. Detroit, Mi.		409,460	80
Trenton High School - Add'n	1971	Russell Hardware Co. Birmingham, Mi.		3,255,007	36,011
Slocum Truax Middle School - Add'n	1971	Detroit Sterling Hardware Detroit, Mi.		152,100	800
Monguagon Middle School	1971	Boyle-Eisen Assoc., Inc. Birmingham, Mi.		2,585,175	23,540
Wm. C. Taylor School - Add'n	1973	Detroit Sterling Hardware Detroit, Mi.		639,850	10,000

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Unionville-Sebewaing Area Schools, Sebewaing, Mi.					
Unionville Elementary School - Add'n	1965		$	$ 215,708	$ 5,288
Utica Community Schools Utica, Mi.					
Utica High School - Remodeling	1968	Russell Hardware Co. Birmingham, Mi.			2,500
Utica High School - Library	1965	Charles Holmes Hardware Co. Detroit, Mi.			3,000
Utica High School - Add'n	1973	Detroit Sterling Hardware Co. Detroit, Mi.			5,220
Eisenhower High School	1970	Detroit Sterling Hardware Co. Detroit, Mi.			73,136
Ford II High School (South Sr. High School)	1973	Detroit Sterling Hardware Co. Detroit, Mi.			73,115
George F. Roberts Elementary School		Detroit Sterling Hardware Co. Detroit, Mi.			9,272
George F. Roberts Elementary School - Add'n	1973	Detroit Sterling Hardware Co. Detroit, Mi.			1,684
Plumbrook Elementary School - Add'n	1971	John H. Damman Company			2,392

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIED	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Utica Community Schools (cont.) Utica, Mi.					
Schwarzkoff Elementary School	1964	Russell Hardware Co. Birmingham, Mi.	$	$	$ 7,785
Schwarzkoff Elementary School - Add'n	1971	John H. Dammann Company			2,433
673A Morgan Elementary School (Mound Rd. Elementary)	1967	Russell Hardware Co. Birmingham, Mi.			8,000
Rose Kidd Elementary School (Gladstone Elementary)	1967	Russell Hardware Co. Birmingham, Mi.			7,785
Messmore Elementary School (Holly Hills Elementary)	1969	Russell Hardware Co. Birmingham, Mi.			7,785
Graebner Elementary School	1972	Commercial Hardware Inc.			14,250
Havel Elementary School		Commercial Hardware Inc.			14,250
Stevenson High School (Adlai E.)	1968	Russell Hardware Co. Birmingham, Mi.			34,000
Stevenson High School - Swimming Pool	1968	Russell Hardware Co. Birmingham, Mi.			4,680

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Utica Community Schools (cont.) Utica, Mi.					
Sterling Jr. High School - Remodeling	1972	Detroit Sterling Hardware Co. Detroit, Mi.	$	$	$ 4,000
Eppler Jr. High School - Add'n	1972	Detroit Sterling Hardware Co. Detroit, Mi.			3,500
Gibbing Elementary School		Russell Hardware Co. Birmingham, Mi.			9,000
Magahay Elementary School	1969	Russell Hardware Co. Birmingham, Mi.			9,000
Monfort Elementary School		Russell Hardware Co. Birmingham, Mi.			8,865
Oakbrook Elementary School	1972	Detroit Sterling Hardware Co. Detroit, Mi.			9,314
DeKeyser Elementary School		Detroit Sterling Hardware Co. Detroit, Mi.			9,272
Crissman Elementary School	1968	Russell Hardware Co. Birmingham, Mi.			9,000
Walsh Elementary School		Russell Hardware Co. Birmingham, Mi.			9,000
Collins Elementary School		Russell Hardware Co. Birmingham, Mi.			9,000
Ewell Elementary School - Research Center Add'n	1967	A.L. Damman Company, Inc. Troy, Mi.			350

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Utica Community Schools (cont.) Utica, Mi.					
Sterling Elementary - Research Center Add'n	1967	A.L. Damman Company, Inc. Troy, Mi.	$	$	$ 350
West Utica Elementary	1967	A.L. Damman Company, Inc. Troy, Mi.			350
Utica Community Schools - Warehouse	1967	A.L. Damman Company, Inc. Troy, Mi.			350
Auburnshire Elementary - Research Center	1967	A.L. Damman Company, Inc. Troy, Mi.			550
Auburnshire Elementary - Add'n	1970	Detroit Sterling Hardware Co. Detroit, Mi.			660
Disco Elementary School - Research Center		A.L. Damman Company, Inc. Troy, Mi.			550
Disco Elementary School - Add'n		Detroit Sterling Hardware Co. Detroit, Mi.			670
Dresden Elementary School - Research Center	1972	A.L. Damman Company, Inc. Troy, Mi.			550
Dresden Elementary School - Add'n		Detroit Sterling Hardware Co. Detroit, Mi.			4,290
Wiley Elementary School - Resarch Center	1972	A.L. Damman Company, Inc. Troy, Mi.			550

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Utica Community Schools (cont.) Utica, Mi.					
Wiley Elementary School Add'n		Detroit Sterling Hardware Co. Detroit, Mi.	$	$	$ 670
Harvey Elementary School - Add'n		A.L. Damman Company, Inc. Troy, Mi.			890
Switzer Elementary School - Remodeling		A.L. Damman Company, Inc. Troy, Mi.			890
Switzer Elementary School - Add'n	1966	Russell Hardware Co. Birmingham, Mi.			3,500
Flickinger Elementary - Add'n	1968	Russell Hardware Co. Birmingham, Mi.			3,500
Davis Jr. High School		Detroit Sterling Hardware Co. Detroit, Mi.			26,000
Malow Jr. High School		Detroit Sterling Hardware Co. Detroit, Mi.			29,000
Shelby Jr. High School - Remodeling		Detroit Sterling Hardware Co. Detroit, Mi.			300
Transportation - Maintenance Bldg. Add'n		Detroit Sterling Hardware Co. Detroit, Mi.			2,250

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Walled Lake Consolidated Schools, Walled Lake, Mi.					
Walled Lake Elementary	1950	Detroit Sterling Hardware Co. Detroit, Mi.	$	$ 109,790	$
Commerce Elementary School - Add'n	1951	Detroit Sterling Hardware Co. Detroit, Mi.		32,710	342
Union Lake Elementary School - Add'n	1951	Detroit Sterling Hardware Co. Detroit, Mi.		81,680	1,325
Wixom Elementary School - Add'n	1951	Detroit Sterling Hardware Co. Detroit, Mi.		34,820	384
Walled Lake Elementary School - Add'n	1952	Detroit Sterling Hardware Co. Detroit, Mi.		325,143	2,410
Dublin Elementary School - Add'n	1952				
Walled Lake Central High School	1954	Detroit Sterling Hardware Co. Detroit, Mi.		879,440	9,846
Twin Beach Elementary School	1955	Detroit Sterling Hardware Co. Detroit, Mi.		250,000	4,118
Commerce Elementary School Add'n	1955	Detroit Sterling Hardware Co. Detroit, Mi.		116,285	3,000
Walled Lake Elementary School - Add'n	1955	Detroit Sterling Hardware Co. Detroit, Mi.		22,958	250

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Walled Lake Consolidated Schools, Walled Lake, Mi.					
Glengary Elementary School - Add'n	1955	Detroit Sterling Hardware Co. Detroit, Mi.	$	$ 149,679	$ 3,000
Walled Lake Central - Add'n	1956	Detroit Sterling Hardware Co. Detroit, Mi.		215,144	2,000
Twin Beach Elementary - Add'n	1955	Detroit Sterling Hardware Co. Detroit, Mi.		50,984	600
Decker Elementary School	1957	Detroit Sterling Hardware Co. Detroit, Mi.		242,100	6,480
Dublin Elementary School - Add'n	1957	Detroit Sterling Hardware Co. Detroit, Mi.		161,091	2,884
Decker Elementary School - Add'n	1957	Detroit Sterling Hardware Co. Detroit, Mi.		126,717	2,775
Commerce Elementary School - Add'n	1957	Detroit Sterling Hardware Co. Detroit, Mi.		139,417	3,252
Twin Beach Elementary - Add'n	1958	Detroit Sterling Hardware Co. Detroit, Mi.		88,683	2,629
Walled Lake Jr. High School - Renovation	1959	Detroit Sterling Hardware Co. Detroit, Mi.		46,542	2,500
Walled Lake Central - Add'n	1959	Detroit Sterling Hardware Co. Detroit, Mi.		151,297	4,796

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Walled Lake Consolidated Schools, Walled Lake, Mi.					
Clifford H. Smart Jr. High School	1960	Detroit Sterling Hardware Co. Detroit, Mi.	$	$ 737,156	$ 21,486
C.H. Smart Jr. High School - Add'n	1961	Detroit Sterling Hardware Co. Detroit, Mi.		138,000	3,104
Union Lake Elementary - Add'n	1961	Detroit Sterling Hardware Co. Detroit, Mi.		166,335	4,922
Keith Elementary School	1964	Detroit Sterling Hardware Co. Detroit, Mi.		262,479	8,500
Glengary Elementary School - Add'n	1964	Detroit Sterling Hardware Co. Detroit, Mi.		168,350	8,451
Wixom Elementary School - Add'n	1964	Detroit Sterling Hardware Co. Detroit, Mi.		223,661	8,105
Walled Lake Central - Add'n	1964	Detroit Sterling Hardware Co. Detroit, Mi.		201,000	9,52[illegible]
Administration Building	1964	Detroit Sterling Hardware Co. Detroit, Mi.		62,234	3,100
Bus Garage	1964	Detroit Sterling Hardware Co. Detroit, Mi.		53,430	928
Union Lake Elementary School - Add'n	1964	Detroit Sterling Hardware Co. Detroit, Mi.		17,000	356

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Walled Lake Consolidated Schools, Walled Lake, Mi. (cont.)					
Twin Beach Elementary - Add'n	1964	Detroit Sterling Hardware Co. Detroit, Mi.	$	$ 24,400	$ 427
Walled Lake Jr. High School - Add'n	1965	Detroit Sterling Hardware Co. Detroit, Mi.		240,472	7,380
Keith Elementary School - Add'n	1965	Detroit Sterling Hardware Co. Detroit, Mi.		182,000	2,000
Decker Elementary School - Add'n	1965	Detroit Sterling Hardware Co. Detroit, Mi.		28,550	700
Commerce Elementary School - Add'n	1965	Detroit Sterling Hardware Co. Detroit, Mi.		30,000	700
Walled Lake Elementary - Add'n	1965	Detroit Sterling Hardware Co. Detroit, Mi.		31,734	600
Oakley Park Elementary School	1966	Detroit Sterling Hardware Co. Detroit, Mi.		424,527	10,631
Loon Lake Elementary School	1968	Detroit Sterling Hardware Co. Detroit, Mi.		474,770	12,400
Walled Lake Western Senior High School	1970	Sterling Doorware Co. Lansing, Mi.		3,508,763	49,642
Twin Sun School - Special Education	1969	Detroit Sterling Hardware Co. Detroit, Mi.		114,143	1,575

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Walled Lake Consolidated Schools, Walled Lake, Mi. (cont.)					
Wixom Elementary School - Add'n	1969	Detroit Sterling Hardware Co. Detroit, Mi.	$	$ 133,279	$ 1,750
Walled Lake Jr. High School - Rennovation	1970	Detroit Sterling Hardware Co. Detroit, Mi.		33,180	1,132
Southwest Oakland Vocational Education Center	1971	Detroit Sterling Hardware Co. Detroit, Mi.		846,970	15,100
Maple Elementary School	1971	Detroit Sterling Hardware Co. Detroit, Mi.		592,034	9,795
Outdoor Education Center	1972	Detroit Sterling Hardware Co. Detroit, Mi.		198,441	4,691
Warren Consolidated Schools Warren, Mi.					
Butcher Jr. High School	1963	Gamalski Hardware, Inc. Detroit, Mi.		677,295	19,000
Butcher Jr. High School - Add'n #1	1964	Gamalski Hardware, Inc. Detroit, Mi.		173,791	8,210
Hartsig Jr. High School	1963	Gamalski Hardware, Inc. Detroit, Mi.		659,698	18,500
Hartsig Jr. High School - Add'n #1	1964	Gamalski Hardware, Inc. Detroit, Mi.		179,250	8,140

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Warren Consolidated Schools Warren, Mi. (cont.)					
Rockwell Elementary School	1964	Russell Hardware Company Birmingham, Mi.	$	$ 416,193	$
Shepard Elementary School	1961	Gamalski Hardware, Inc. Warren, Mi.		283,454	
Shepard Elementary School - Add'n #1	1964	Gamalski Hardware Inc. Warren, Mi.		126,769	5,650
South Elementary School - Add'n #1	1956			182,579	
South Elementary School - Add'n #2	1960	Charles Holmes		170,218	
South Elementary School - Add'n #3	1964			259,000	11,100
Warner Elementary School -	1961	Gamalski Hardware Company Detroit, Mi.		222,255	
Warner Elementary School - Add'n #1	1963			30,452	
Warner Elementary School - Add'n #2	1964	Gamalski Hardware Company Warren, Mi.		134,486	4,770
Melby Jr. High School	1965	Commercial Hardware, Inc. Detroit, Mi.		878,319	22,585

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Warren Consolidated Schools Warren, Mi. (cont.)					
Marshall Elementary School	1955		$	$ 133,400	$
Marshall Elementary School - Add'n #1	1957			130,315	
Marshall Elementary School - Add'n #2	1960			7,762	
Marshall Elementary School - Add'n #3	1965	Detroit Sterling Hardware Co. Detroit, Mi.		145,680	395
Administration Building	1962	Contractors Hardware Company Detroit, Mi.		118,006	1,790
Administration Building Add'n #1	1967			205,179	4,416
Bever Elementary School	1962			230,350	
Bever Elementary School - Add'n #1	1963	A.L. Damman Co., Inc. Troy, Mi.		32,719	1,05[illegible]
Bever Elementary School - Add'n #2	1964			116,437	
Bever Elementary School - Add'n #3	1967	Commercial Hardware, Inc. Detroit, Mi.		77,843	1,040
Holland Elementary School	1964	A.L. Damman Co., Inc. Troy, Mi.		273,849	7,500

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Warren Consolidated Schools Warren, Mi. (cont.)					
Holland Elementary School - Add'n #1	1967	A.L. Damman Company, Inc. Detroit, Mi.	$	$ 138,301	$
Siersma Elementary School	1964	Detroit Sterling Hardware Co. Detroit, Mi.		383,660	16,827
Siersma Elementary School - Add'n #1	1967	Detroit Sterling Hardware Co. Detroit, Mi.		109,236	5,055
Weber Elementary School	1961			288,667	6,847
Weber Elementary School - Add'n #1	1967	Commercial Hardware, Inc. Detroit, Mi.		128,192	
Lee Jr. High School	1969	Commercial Hardware, Inc. Detroit, Mi.		1,369,931	32,825
Black Elementary School	1966	Detroit Sterling Hardware Co. Detroit, Mi.		312,618	
Black Elementary School - Add'n #1	1967			170,515	
Black Elementary School - Add'n #2	1968	Detroit Sterling Hardware Co. Detroit, Mi.		230,397	5,840
Cutter Jr. High School	1968	Gamalski Hardware Company Warren, Mi.		1,229,875	32,825
Cromie Elementary School	1962			300,416	

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Warren Consolidated Schools Warren, Mi. (cont.)					
Cromie Elementary School - Add'n #1	1964		$	$ 139,539	$ 6,000
Cromie Elementary School - Add'n #2	1968	Commercial Hardware Co. Detroit, Mi.		69,577	2,750
Frost Elementary School	1963			352,949	10,760
Frost Elementary School Add'n #1	1964	A.L. Damman Company, Inc. Troy, Mi.		40,405	2,050
Frost Elementary School - Add'n #2	1967			183,619	
Frost Elementary School - Add'n #3	1963	Commercial Hardware Co. Detroit, Mi.		115,272	
Hesse Elementary School	1962	A.L. Damman Company, Inc. Mt. Clemens, Mi.		338,140	
Hesse Elementary School - Add'n #1	1964			46,293	
Hesse Elementary School - Add'n #2	1968			94,900	
Angus Elementary School	1969	Detroit Sterling Hardware Co. Detroit, Mi.		696,827	21,912

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Warren Consolidated Schools Warren, Mi. (cont.)					
Fillmore Elementary School	1969	Commercial Hardware, Inc. Detroit, Mi.	$	$ 647,890	$ 17,282
Grissom Jr. High School	1969	Commercial Hardware, Inc. Detroit, Mi.		1,414,285	34,322
Haitema Elementary School	1966	Commercial Hardware, Inc. Detroit, Mi.		292,880	14,206
Haitema Elementary School - Add'n #1	1969	Commercial Hardware, Inc. Detroit, Mi.		179,622	5,474
Hatherly Elementary School	1969	Commercial Hardware, Inc. Detroit, Mi.		731,455	18,747
Pearl Lean Elementary School	1964	Russell Hardware Co. Birmingham, Mi.		352,606	20,000
Pearl Lean Elementary School - Add'n #1	1967	Detroit Sterling Hardware Co. Detroit, Mi.		82,120	4,100
Pearl Lean Elementary School - Add'n #2	1969			131,102	
Susick Elementary School	1966	Detroit Sterling Hardware Co. Detroit, Mi.		290,313	10,440
Susick Elementary School - Add'n #1	1969	Detroit Sterling Hardware Co. Detroit, Mi.		253,622	6,920

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Warren Consolidated Schools Warren, Mi. (cont.)					
Wilde Elementary School	1964	Detroit Sterling Hardware Co. Detroit, Mi.	$	$ 381,163	$ 16,827
Wilde Elementary School - Add'n #1	1967	Detroit Sterling Hardware Co. Detroit, Mi.		191,511	8,380
Wilde Elementary School - Add'n #2	1969	Detroit Sterling Hardware Co. Detroit, Mi.		177,841	4,869
Wilkerson Elementary School	1970	Commercial Hardware, Inc. Detroit, Mi.		632,349	17,296
Fuhrmann Jr. High School	1959			849,938	8,495
Fuhrmann Jr. High School - Add'n #1	1960	Russell Hardware Company Birmingham, Mi.		184,414	
Fuhrmann Jr. High School - Add'n #2	1961			11,675 (Incl. Arch.)	
Furhmann Jr. High School - Add'n #3	1970	Detroit Sterling Hardware Co. Detroit, Mi.		39,324	2,650 (Incl. Rinke Elem.)
Rinke Elementary School	1958			257,542	
Rinke Elementary School - Add'n #1	1961			132,394	
Rinke Elementary School - Add'n #2	1964			101,056	4,768

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Warren Consolidated Schools Warren, Mi. (cont.)					
Rinke Elementary School - Add'n #3	1970	Detroit Sterling Hardware Co. Detroit, Mi.	$	$ 61,279	2,650 (Incl. Fuhrmann)
Green Acres Elementary School	1958	Russell Hardware Company Birmingham, Mi.		249,313	5,000
Green Acres Elementary School - Add'n #1	1960			124,684	
Green Acres Elementary School - Add'n #3	1970	Detroit Sterling Hardware Co. Detroit, Mi.		46,748	889
North Elementary School	1957			198,115	
North Elementary School - Add'n #2 (Library & Bus Maintenance Bldg.)	1965	A.L. Damman Company, Inc. Mt. Clemens, Mi.		39,215	1,325
North Elementary School - Add'n #3	1971	Detroit Sterling Hardware Co. Detroit, Mi.		46,433	345
Harwood Elementary School	1970	Detroit Sterling Hardware Co. Detroit, Mi.		924,431	23,557
Maple Lane Elementary School	1970	Detroit Sterling Hardware Co. Detroit, Mi.		840,968	22 020
Pennow Elementary School	1962	Russell Hardware Company Birmingham, Mi.		281,309	
Pennow Elementary School - Add'n #1	1964	Contractors Hardware Company Detroit, Mi.		157,893	3,173

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Warren Consolidated Schools Warren, Mi. (cont.)					
Pennow Elementary School - Add'n #2	1967	Russell Hardware Company Birmingham, Mi.	$	$ 111,083	$ 1,970
Pennow Elementary School - Add'n #3	1970	Russell Hardware Company Birmingham, Mi.		123,610	2,970
Sterling Heights Senior High School	1971	Commercial Hardware, Inc. Detroit, Mi.		4,334,605	72,995
Wildwood Elementary School	1964			273,600	7,500
Wildwood Elementary School - Add'n #1	1967			66,940	1,233
Wildwood Elementary School - Add'n #2	1970	Commercial Hardware, Inc. Detroit, Mi.		187,750	
Willow Woods Elementary School	1970	Detroit Sterling Hardware Co. Detroit, Mi.		843,549	21,382
Carleton Jr. High School	1971	Commercial Hardware, Inc. Detroit, Mi.		1,709,910	41,880
County Line Elementary School - Add'n #2	1971	Detroit Sterling Hardware Co. Detroit, Mi.		55,673	1,265
Murthum Elementary School - Add'n #2	1957	Russell Hardware Company Birmingham, Mi.		246,775	3,000

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIED BY	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Warren Consolidated Schools Warren, Mi. (cont.)					
Murthum Elementary School - Add'n #3	1961		$	$ 71,800	$ 1,980
Murthum Elementary School - Add'n #4	1971	Detroit Sterling Hardware Co. Detroit, Mi.		105,303	2,576
Educational Services Center	1971	Detroit Sterling Hardware Co. Detroit, Mi.		598,081	9,530
Flynn Jr. High School	1971	Commercial Hardware, Inc. Detroit, Mi.		1,506,349	41,880
Holden Elementary School	1971	Commercial Hardware, Inc. Detroit, Mi.		727,392	20,095
Warren High School	1949	Russell Hardware Company Birmingham, Mi.		426,913	3,800
Warren High School - Add'n #1	1958			1,083,420	
Warren High School - Add'n #2	1963			70,111	1,600
Warren High School - Cafeteria Remodeling	1965	Gamalski Hardware, Inc. Warren, Mi.		55,948	1,645
Warren High School - Add'n #3	1968			180,461	2,810
Warren High School - Add'n #4 (Auto Shop)	1971	Detroit Sterling Hardware Co. Detroit, Mi.		99,879	2,585

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Warren Consolidated Schools Warren, Mi. (cont.)					
Cousino Sr. High School	1962	A.L. Damman Company, Inc. Mt. Clemens, Mi.	$	$ 1,249,607	$ 23,750
Cousino Sr. High School - Add'n #1 (Pool)	1963	A.L. Damman Company, Inc. Mt. Clemens, Mi.		247,840	2,186
Cousino Sr. High School - Add'n #2	1967	Russell Hardware Company Birmingham, Mi.		384,040	9,450
Cousino Sr. High School - Add'n #3	1968	Russell Hardware Company Birmingham, Mi.		53,000	9,880
Cousino Sr. High School - Add'n #4 (Auto Shop)	1973	Detroit Sterling Hardware Co. Detroit, Mi.		175,079	5,000
Mott Sr. High School	1964	A.L. Damman Company, Inc. Troy, Mi.		1,386,015	26,100
Mott Sr. High School - Add'n #1	1967	A.L. Damman Company, Inc. Troy, Mi.		361,000	9,137
Mott Sr. High School - Add'n #2 (Pool)		Detroit Sterling Hardware Company Detroit, Mi.		438,773	4,856
Mott Sr. High School - Add'n #4 (Auto Shop)	1973	Detroit Sterling Hardware Company Detroit, Mi.		173,779	5,000
Thorpe Elementary School	1971	Commercial Hardware, Inc. Detroit, Mi.		528,330	14,500
Thorpe Elementary School - Add'n #1	1974	Tupper Associates, Inc. Farmington, Mi.		338,750	8,500

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
School Districts (cont.):					
Wayland Union Schools Wayland, Mi.					
Baker Elementary School	1956		$	$ 177,598	$
Steeby Elementary School (New) and Baker Elementary School (Add'n)	1963	S.A. Morman Company Grand Rapids, Mi.		218,744	
Wayland High School	1973	Page Hardware Company Grand Rapids, Mi.		1,543,955	25,695
Baker Elementary, Dorr Elementary and Moline Elementary Schools - Add'ns; Middle School - Gym	1973	Page Hardware Company Grand Rapids, Mi.		379,702	7,195

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education:					
Alpena Community College Alpena, Mi.					
Van Lare Hall	1957-59		$	$ 307,255 (Arch. only)	$ 4,310
Besser Tech. Center	1961-63			602,553 (Arch. only)	13,000
Van Lare Hall - Add'n	1962-64			107,991 (Arch. only)	1,400
Student Center	1967-68			107,919	1,000
Wilson Dormitory	1966-68			1,075,995	22,165
Besser Tech. - Add'n	1967-68			219,299	2,201
Forestry Building	1971-72	S.A. Morman & Co. Grand Rapids, Mi.		102,908	1,200
Fisheries Lab	1971-72	S.A. Morman & Co. Grand Rapids, Mi.		165,759	1,200
Natural Resource Center	1971-74	S.A. Morman & Co. Grand Rapids, Mi.		1,477,526	9,354
Bay de Noc Community College Escanaba, Mi.					
Educational Facility - Classrooms, Labs	1964-70			225,147	
Catherine Bonifas Bldg.	1969-71	Grand Rapids Screan Co., Inc. Grand Rapids, Mi.		320,294	4,900

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE FURNISHED BY	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Bay de Noc Community College Escanaba, Mi. (cont.)					
Gymnasium	1970-71	Century Hardware Corp. Milwaukee, Wis.	$	$ 231,867	$
Student Center	1971-73	LaForce Hardware & Mfg. Co. Green Bay, Wis.		192,303	7,700
Student Housing	1972-73			398,705	
694A Central Michigan University Mt. Pleasant, Mi.					
Building Maintenance - Replacement Lock Hardware	1969-70	Southwest Sterling Supply Co. Kalamazoo, Mi.			57
" "	1969-70	George Worthington Company Lansing, Mi.			14
" "	1969-70	Sterling Doorware Co. Lansing, Mi.			2,369
" "	1970-71	Southwest Sterling Supply Co. Kalamazoo, Mi.			180
" "	1970-71	Sterling Doorware Co. Lansing, Mi.			2,529
" "	1971-72	Southwest Sterling Supply Co. Lansing, Mi.			84
" "	1971-72	Sterling Doorware Co. Lansing, Mi.			1,307

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Central Michigan University Mt. Pleasant, Mi.					
Building Maintenance - Replacement Lock Hardware	1972-73	Detroit Sterling Hardware Co. Detroit, Mi.	$	$	$ 2,221
" "	1972-73	George Worthington Company Lansing, Mi.			83
" "	1972-73	Sterling Doorware Co. Lansing, Mi.			2,076
" "	1973-74	Detroit Sterling Hardware Co. Detroit, Mi.			476
" "	1973-74	Southwest Sterling Dooware Lansing, Mi.			873
" "	1973-74	Sterling Doorware Company Lansing, Mi.			1,315
" "	1974-75	E & I Cooperative Service, Inc. Garden City, N.Y.			3,567
" "	1974-75	Southwest Sterling Doorware Lansing, Mi.			40
" "	1974-75	Detroit Sterling Hardware Detroit, Mi.			572
" "	1974-75	Sterling Doorware Co. Lansing, Mi.			1,616
Eastern Michigan University Ypsilanti, Mi.					
Strong Science Building	1956-57	Russell Hardware Co. Birmingham, Mi.			

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Eastern Michigan University Ypsilanti, Mi.					
Buell Hall #2	1956-57	Russell Hardware Co. Birmingham, Mi.	$	$ 1,007,500	$ 11,000
Downing Hall #1	1956-57	Jenison Builders Hardware Bay City, Mi.		1,025,381	10,000
Snow Health Center	1959	Russell Hardware Co. Birmingham, Mi.		617,200	6,000
Starkweather Alterations	1961	Russell Hardware Co. Birmingham, Mi.		62,808	1,150
McKenny Hall - Remodeling	1964-66	Russell Hardware Co. Birmingham, Mi.		1,412,803	25,900
Dorm Complex #2 (A, B & C)	1965-67	Detroit Sterling Hardware Detroit, Mi.		2,458,921	36,000
Cornell Courts Addition	1965-67	Russell Hardware Co. Birmingham, Mi.		496,909	4,500
University Library	1965-69	Russell Hardware Co. Birmingham, Mi.		2,220,663	17,950
Quirk Theatre Add'n	1965-67	Russell Hardware Co. Birmingham, Mi.		215,219	3,477
Ford Hall Remodeling	1966-67	Russell Hardware Co. Birmingham, Mi.		368,548	7,500
Dorm Complex #2 (C, D & E)	1966-67	Detroit Sterling Hardware Co. Detroit, Mi.		2,299,550	37,000

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Eastern Michigan University Ypsilanti, Mi.					
West Campus Group I	1967-68	Russell Hardware Co. Birmingham, Mi.	$	$ 546,850	$ 3,420
Classroom No. 1	1967-69	Russell Hardware Co. Birmingham, Mi.		4,900,664	57,263
Old Library Remodeling	1967-68	Russell Hardware Co. Birmingham, Mi.		508,022	6,800
Dorm Complex #3	1967-69	Russell Hardware Co. Birmingham, Mi.		6,107,144	89,000
Science Complex	1967-70	Russell Hardware Co. Birmingham, Mi.		[illegible]1,200	44,400
Football Stadium - West Campus	1968-70	Detroit Sterling Hardware Co. Detroit, Mi.		1,310,178	5,600
Westview Apts. II - West Campus	1968-70	Russell Hardware Co. Birmingham, Mi.		1,479,361	8,200
Parking Structure No. 1	1968-69	Russell Hardware Co. Birmingham, Mi.		1,517,866	4,600
Munson Remodeling	1973	Russell Hardware Co. Birmingham, Mi.		190,384	
Brown Remodeling	1973	Russell Hardware Co. Birmingham, Mi.		270,511	
Roosevelt Remodeling	1972-74	Russell Hardware Co. Birmingham, Mi.		1,474,010	27,000

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Ferris State College Big Rapids, Mi.					
East-West Building	1950-52		$	$ 690,581	$ 7,320
Garage Building, Heating & Maintenance	1954-56	Muskegon Hardware and Supply Co. Muskegon, Mi.		525,000	4,548
Masselink Commons, Dormitory, Food Commons & Student Center	1954-56	Bond Supply Co.		1,093,700	8,000
Helen Gillespie Ferris Hall	1955-57			660,833	8,270
Married Housing A-K	1955-57			512,095	
Science Building	1955-57	S.A. Morman & Co. Grand Rapids, Mi.		688,000	5,500
Trades and Industrial Bldg.	1956-58	S.A. Morman & Co. Grand Rapids, Mi.		738,034	2,948
Vandercook & Carlisle Halls	1956-58	S.A. Morman & Co. Grand Rapids, Mi.		1,241,884	16,150
Hallisy Hall	1957-59	S.A. Morman & Co. Grand Rapids, Mi.		702,184	9,350
Student Center Building	1957-59	S.A. Morman & Co. Grand Rapids, Mi.		1,046,266	3,674
Frank Johnson Hall	1958-60	S.A. Morman & Co. Grand Rapids, Mi.		475,500	5,490
Married Student Apts. L, M. N. O, P	1958-60	S.A. Morman & Co. Grand Rapids, Mi.		608,700	

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Ferris State College (cont.) Big Rapids, Mi.					
Student Health Building	1959-61		$	$ 295,540	$ 3,800
Student Center Bldg. - Add'n	1960-62			572,643	2,600
Clark Hall	1960-62			905,800	
Classroom, Auditorium & Office Buiidings	1960-62	S.A. Morman & Company Grand Rapids, Mi.		1,102,456	14,700
Dorms 9 & 10 (Travis & Merrill)	1960-62	S.A. Morman & Company Grand Rapids, Mi.		1,420,645	24,200
Dorms 11 & 12 (Brophy & McNerney)	1961-63	S.A. Morman & Company Grand Rapids, Mi.		1,197,766	21,097
Music Building	1961-63	S.A. Morman & Company Grand Rapids, Mi.		213,105	2,300
Ward and Miller Hall	1962-64	S.A. Morman & Company Grand Rapids, Mi.		1,372,006	25,500
Physical Education Bldg.	1963-65	S.A. Morman & Company Grand Rapids, Mi.		983,000	8,200
Dorms 15 & 16 (Taggart & Pickell)	1963-65	S.A. Morman & Company Grand Rapids, Mi.		1,640,614	30,000
Dorms 17 & 18 (Puterbaugh & Henderson) and Heating Plant	1964-66	S.A. Morman & Company Grand Rapids, Mi.		1,776,303	31,000

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FIRM FURNISHING FINISH HARDWARE	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Ferris State College (cont.) Big Rapids, Mi.					
Dorms 19 & 20, and All Purpose Bldg.	1965-67	S.A. [illegible] Company Grand [illegible], Mi.	$	$ 72,826	$ 28,100
Library and Independence Study	1965-67	S.A. [illegible] Company Grand [illegible], Mi.		654,500	7,293
Trade-Technical (Swan Bldg.)	1965-67	S.A. [illegible] Company Grand [illegible], Mi.		1,085,000	14,250
Dorm #21 (Bishop Hall)	1966-68	S.A. [illegible] Company Grand [illegible], Mi.		1,014,633	7,600
Group 4 - Married Student Apts.	1966-68	S.A. [illegible] Company Grand [illegible], Mi.		1,322,105	13,300
Science Facilities Add'n	1966-68	S.A. [illegible] Company Grand [illegible], Mi.		748,165	7,990
Trade and Industrial Annex	1966-68	S.A. [illegible] Company Grand [illegible], Mi.		610,000	3,495
West Food Service - West Campus	1966-68	S.A. [illegible] Company Grand [illegible], Mi.		554,098	5,500
Student Health Center Add'n	1967-69	S.A. [illegible] Company Grand [illegible], Mi.		347,488	
Audio-Visual Bldg.	1967-69	Grand [illegible] Screen Company Grand [illegible], Mi.		853,839	8,430
Dorm #22 and 23 (Pennock & Cramer Halls)	1967-69	Grand [illegible] Screen Company Grand [illegible], Mi.		2,876,377	19,500

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Ferris State College (cont.) Big Rapids, Mi.					
Trade & Industrial Bldg. - Remodeling	1967-69	S.A. Morman & Company Grand Rapids, Mi.	$	$ 106,837	$ 2,500
West Building - Remodeling	1967-69	Grand Rapids Screen Company Grand Rapids, Mi.		181,500	1,050
Married Student Housing	1968-70	Meyers Hardware Company Grand Rapids, Mi.		806,902	11,800
Trade & Industrial Building - Phase 2 - Remodeling	1968-70	S.A. Morman & Company Grand Rapids, Mi.		77,088	1,303
School of Business	1968-70	Grand Rapids Screen Company, Inc. Grand Rapids, Mi.		1,925,836	15,556
School of Pharmacy	1970-72	Interior Building Systems Traverse City, Mi.		1,368,978	25,200
Science Building - Remodeling	1972-73	S.A. Morman & Company Grand Rapids, Mi.		484,835	2,500
Ice Arena Facility	1974-75	Meyers Hardware Company Grand Rapids, Mi.		229,799	13,262
Housing Maintenance	1972	C.A. Ritchey, Inc. Southfield, Mi.			665
" "	1972-73	C.A. Ritchey, Inc. Southfield, Mi.			1,126

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Ferris State College (cont.) Big Rapids, Mi.					
Housing Maintenance	1973	S.A. Morman & Company Grand Rapids, Mi.	$	$	$ 573
" "	1973	C.A. Ritchey, Inc. Southfield, Mi.			392
" "	1973	C.A. Ritchey, Inc. Southfield, Mi.			63
" "	1973-74	C.A. Ritchey, Inc. Southfield, Mi.			1,850
" "	1974	C.A. Ritchey, Inc. Southfield, Mi.			65
" "	1974	C.A. Ritchey, Inc. Southfield, Mi.			3,187
Lake Michigan College Benton Harbor, Mi.					
New Building	1967-69	Sterling Doorware Lansing, Mi.		4,793,172	20,210
New Building	1969-70	Sterling Doorware Lansing, Mi.		4,130,500	34,400
New Building	1972-74	Oshtemo Hill, Inc. Kalamazoo, Mi.		1,446,321	2,492

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Michigan Technological University Houghton, Mi.					
Memorial Union Bldg.	1950-52	Quality Hardware Marquette, Mi.	$	$ 653,606	$ 8,900
Service & Storage Bldg.	1952-53			77,777	
Ores Research	1954-55	Detroit Sterling Hardware Co. Detroit, Mi.		349,445	3,200
Wadsworth Hall - Dorm.	1954-55			1,204,593	
Civil-Geology Bldg.	1956-57			865,385	9,895
Wadsworth Hall - Add'n I	1957-58	Detroit Sterling Hardware Co. Detroit, Mi.		2,878,384	21,890
Daniell Heights - Student Housing	1960			1,457,246	
Fisher Hall	1962-65	George Worthington Company Milwaukee, Wis.		2,713,932	18,000
Daniell Heights - Add'n I	1965			611,000	
Library	1965-66	Contractors Hardware Company Detroit, Mi.		969,200	9,600
Wadsworth Hall - Add'n II	1965-66			576,500	8,000
Coed Phase I & Food Service	1965-67	LaForce Builders Hardware, Inc. Green Bay, Wis.		1,222,879	21,000

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Michigan Technological University Houghton, Mi. (cont.)					
Forestry-IWR Bldg.	1966-67	LaForce Builders Hardware, Inc. Green Bay, Wis.	$	$ 1,565,000	$ 6,000
Chem-Met Bldg.	1966-68	I. E. Swift Company Houghton, Mi.		7,250,000	27,000
Daniell Heights - Add'n II	1967-68	LaForce Builders Hardware, Inc. Green Bay, Wis.		1,253,000	11,800
Coed Dorm. - Phase II	1967-68	Grant Hardware Company		1,707,650	20,000
Administration Bldg.	1967-69	Orrco Company Traverse City, Mi.		2,445,000	21,000
ME-EM Bldg.	1969-71	Grand Rapids Screen Co., Inc. Grand Rapids, Mi.		7,825,000	33,735
Ford Forestry Center Lab.	1969-70	Block Iron & Steel		85,000	
Student Development Complex	1970-71	LaForce Builders Hardware, Inc. Green Bay, Wis.		2,331,766	6,666
Central Heating Plant	1970-71			406,700	1,000

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Monroe County Community College Monroe, Mi.					
Physical Plant - Phase One	1968	The Vicon Supply Company, Inc. Toledo, Ohio	$	$ 5,185,745	$ 28,802
Physical Plant - Phase Two	1970-71	The Vicon Supply Company, Inc. Toledo, Ohio		2,303,093	15,400
Montcalm Community College Sidney, Mi.					
Vocational Building	19o7	S.A. Morman & Co. Grand Rapids, Mi.		70,534	2,200
Academic Building, Learning Center and Power Plant	1966-67	S.A. Morman & Co. Grand Rapids, Mi.		714,109	9,300
Academic Building	1968-69	S.A. Morman & Co. Grand Rapids, Mi.		197,480	6,800
Vocational Building - Add'n	1970-71	S.A. Morman & Co. Grand Rapids, Mi.		141,067	4,000
Northern Michigan University Marquette, Mi.					
Practical & Fine Arts Classrooms	1962-63	Meyers Hardware Co. Grand Rapids, Mi.		1,428,755	33,300
West Science Building	1965	Wolff Kubly Hersig Madison, Wis.		1,419,346	29,000

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Northern Michigan University Marquette, Mi. (cont.)					
University Center - Add'n	1965-66	LaForce Builders Hardware, Inc. Green Bay, Wis.	$	$ 1,028,775	$ 9,000
Learning Resources Center	1967-69	Wolff Kubly Hersig Madison, Wis.		2,349,452	35,600
Instructional Facility	1968-70	Wolff Kubly Hersig Madison, Wis.		1,500,000	21,754
Oakland Community College Bloomfield Hills, Mi.					
Main Building - Highland Lakes Campus	1965	Russell Hardware Co. Birmingham, Mi.		441,435	8,445
Instructional Building - Highland Lakes Campus	1965-66	Russell Hardware Co. Birmingham, Mi.		133,897	4,365
Instructional Building - Auburn Hills Campus	1965-66	Russell Hardware Co. Birmingham, Mi.		139,668	4,344
Buildings A, B, C, D, E, F & G - Orchard Ridge Campus	1965-68	Commercial Hardware, Inc. Detroit, Mi.		6,165,327	26,859
Sawyer Cottage - Clinton Valley Center	1967-68	Russell Hardware Co. Birmingham, Mi.		36,888	
Sawyer Building - Clinton Valley Center	1968	Russell Hardware Co. Birmingham, Mi.			465

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Oakland Community College Bloomfield Hills, Mi.					
Buildings J, K, L & M - Orchard Ridge Campus	1966-70	Detroit Sterling Hardware Co. Detroit, Mi.	$	$ 9,632,814	$ 47,500
Partitions for Buildings A, C & D - Orchard Ridge Campus	1969-70	Detroit Sterling Hardware Co. Detroit, Mi.		100,483	3,982
Buildings A, E & G - Auburn Hills Campus	1967-71	Tupper Associates, Inc. Farmington, Mi.		5,477,575	15,000
Building F - Auburn Hills Campus	1968-71	Tupper Associates, Inc. Farmington, Mi.		2,982,987	21,000
Administrative Building - George Bee Administration Center	1968-71	Tupper Associates, Inc. Farmington, Mi.		670,828	11,000
Student Union - Highland Lakes Campus	1971-72	Boyle-Ericson Assoc., Inc. Birmingham, Mi.		871,400	6,785
Student Union - Auburn Hills Campus	1971-73	Detroit Door & Hardware Co. Madison Heights, Mi.		1,102,405	8,840
Maintenance Building - Orchard Ridge Campus	1972-73	Gervais & Assoc. Livonia, Mi.		134,925	526
Classroom Building - Southeast Campus System	1973-74	Vando Construction Products, Inc. Livonia, Mi.		202,998	3,900

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
nstitutions of Higher Education (cont.):					
Oakland Community College Bloomfield Hills, Mi.					
Administration Building "A" Highland Lakes Campus	1965	Russell Hardware Co. Birmingham, Mi.	$	$	$ 30
Campus Buildings - Highland Lakes Campus	1965	Russell Hardware Co. Birmingham, Mi.			273
Campus Buildings - Orchard Ridge Campus	1967	Commercial Hardware, Inc. Detroit, Mi.			1,138
Buildings A, B, C, D, E, F, G, J, K, L & M - Orchard Ridge Campus	1967	Tupper Associates, Inc. Farmington, Mi.			11,530
Sawyer Building - Clinton Valley Center	1968	Tupper Associates, Inc. Farmington, Mi.			322
Extra Maximum Security Keys for Buildings - Orchard Ridge Campus	1968	Tupper Associates, Inc. Farmington, Mi.			254
Sawyer Building - Clinton Valley Center	1968	Tupper Associates, Inc. Farmington, Mi.			497
Buildings A, E, F & G - Auburn Hills Campus	1969	C.A. Ritchey, Inc. Southfield, Mi.			1,618
Building F - Auburn Hills Campus	1969	C.A. Ritchey, Inc. Southfield, Mi.			43

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Oakland University Rochester					
First Building	1958-59	Russell Hardware Co. Birmingham, Mi.	$	$ 1,799,254	$ 9,950
Student Center	1959-60	Russell Hardware Co. Birmingham, Mi.		523,682	2,785
Kresge Library	1960-61	Russell Hardware Co. Birmingham, Mi.		1,193,104	3,686
Student's Residence Units	1961	Detroit Sterling Hardware Co. Detroit, Mi.		598,724	7,397
Engineering-Science Building	1960-62	Ranglier Associates, Inc. Detroit, Mi.		1,688,896	15,952
Student Center - Add'n	1961-62	J. H. Freeman Hardware Co. Detroit, Mi.		479,896	2,900
Boiler Plant - Add'n	1961-62	Russell Hardware Co. Birmingham, Mi.		122,101	
Administration Building - Alterations	1962-63	Russell Hardware Co. Birmingham, Mi.		58,993	1,617
Pryale House	1962-63	Detroit Sterling Hardware Company Detroit, Mi.		335,732	5,995
Intramural Building	1964	Detroit Sterling Hardware Company Detroit, Mi.		1,320,063	12,784
Dormitory #4	1964	Contractors Hardware Co. Detroit, Mi.		782,494	7,700

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Oakland University Rochester, Mi. (cont.)					
Dormitory #5	1964	Contractors Hardware Co. Detroit, Mi.	$	$ 767,231	$ 8,250
Dormitory #6	1964-66	Southwest Sterling Supply Co. Kalamazoo, Mi.		3,746,183	33,350
Matilda R. Wilson Hall	1965-66	Russell Hardware Company Birmingham, Mi.		2,282,535	18,730
Administration Building - Interior Renovations	1966-67	Russell Hardware Company Birmingham, Mi.		13,399	310
Kresge Library - Alterations	1966-67	John H. Damman Hardware Co.		163,127	2,623
Intramural Building - Remodeling	1967	A.L. Damman Co., Inc. Detroit, Mi.		220,651	1,698
Engineering Building	1966-69	Russell Hardware Company Birmingham, Mi.		4,230,103	32,000
Student Dormitory #7	1967-69	Detroit Sterling Hardware Co. Detroit, Mi.		3,113,045	32,330
Health Center	1967-69	Russell Hardware Company Birmingham, Mi.		576,981	6,300
Classroom-Office Building #1	1968-70	Commercial Hardware, Inc. Detroit, Mi.		4,279,971	35,000
Oakland Center - Remodeling & Add'n	1969-70	A.L. Damman Co., Inc. Detroit, Mi.		1,972,031	8,900

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Oakland University Rochester, Mi. (cont.)					
Central Heating Plant	1969-71	Russell Hardware Company Birmingham, Mi.	$	$ 999,328	$ 1,052
Western Michigan University Kalamazoo, Mi.					
711A North Valley Dormitory #2	1963-64	George Worthington Co. Lansing, Mi.		2,486,650	53,500
Distributive Education Classrooms	1965-66	Detroit Sterling Supply Co. Detroit, Mi.		208,109	2,480
Industrial Engineering Technology Classrooms and Office	1965-66	Detroit Sterling Supply Co. Detroit, Mi.		2,368,874	22,850
Waldo Library - Add'n	1966-67	Detroit Sterling Supply Co. Detroit, Mi.		939,325	9,500
Aviation Facility	1967	Detroit Sterling Supply Co. Detroit, Mi.		287,537	3,640
Stadium Drive Apartments - Phase I	1967-68	Detroit Sterling Supply Co. Detroit, Mi.		2,762,429	25,700
Auditorium	1967-68	George Worthington Co. Lansing, Mi.		4,237,159	26,410
Health Services Building	1968-69	Detroit Sterling Supply Co. Detroit, Mi.		1,434,714	11,900

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Institutions of Higher Education (cont.):					
Western Michigan University Kalamazoo, Mi.					
Physical Science Building and Office Facilities	1968-70	Detroit Sterling Supply Co. Detroit, Mi.	$	$ 2,876,157	$ 32,000
Parking Structure #1	1969-70	Detroit Sterling Supply Co. Detroit, Mi.		969,307	1,140
McCracken Hall - Alterations & Add'ns	1968-71	Detroit Sterling Supply Co. Detroit, Mi.		1,496,939	19,245
Instructional Facility #1	1969-71	Bond Supply Co. Kalamazoo, Mi.		3,788,660	43,890
Stadium Drive Apartments - Phase II	1971-72	Bond Supply Co. Kalamazoo, Mi.		984,246	10,926
Waldo Stadium - Improvements	1972-73	Oshetemo Hill Corporation Kalamazoo, Mi.		1,212,819	2,354
Moore Hall - Renovation	1973	Bond Supply Co. Kalamazoo, Mi.		492,557	2,820
Recreation Building	1972-74	Bond Supply Co. Kalamazoo, Mi.		3,017,518	21,385

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies					
Department of Corrections Ionia, Mi.					
Michigan Training Unit - Fifth Housing Unit	1969-70	S.A. Norman & Co. Grand Rapids, Mi.	$	$ 275,000	$
Department of Education Lansing, Mi.					
State Technical Institute Plainwell, Mi.					
Dormitory & Commons	1963-64	Grand Rapids Screen, Inc. Grand Rapids, Mi.		819,290	
Shop, Classroom & Adm. Bldg.	1968-70	Grand Rapids Screen, Inc. Grand Rapids, Mi.		836,400	24,800
Shop, Classroom & Bldg. Add'n	1969-70	Grand Rapids Screen, Inc. Grand Rapids, Mi.		150,212	1,219
Food Service Training Add'n	1970-71	Grand Rapids Screen, Inc. Grand Rapids, Mi.		157,044	1,036
Health, Physical Therapy & Recreation Bldg.	1973-74	Grand Rapids Screen, Inc. Grand Rapids, Mi.		940,545	11,760

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Management and Budget, Lansing, Mi.					
Management Division Lansing, Mi.					
Capitol Building - Remodeling	1969	Sterling Doorware Co. Lansing, Mi.	$	$	$ 241
Secretary of State Eaton County, Mi.					
Secondary Governmental Complex - Office Bldg.	1969	Young Brothers and Daley, Inc. Lansing, Mi.		296,200	1,000
Secondary Governmental Complex - Office Bldg.	1970-71	Young Brothers and Daley, Inc. Lansing, Mi.		1,025,000	8,998
Police Training Academy (Dept. of State Police) Eaton County, Mi.	1972-74	Sterling Doorware Co. Lansing, Mi.		2,865,000	22,600
Michigan State Industries (Dept. of Corrections) Jackson, Mi. (Maint.)	1969-74	Eaton, Yale & Towne Southfield, Mi.			5,455
Muskegon Correctional Facility (Dept. of Corrections) Muskegon, Mi. (Maint.)	1974	Architectural Hardware Muskegon, Mi.			2,350

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Management and Budget, Lansing, Mi. (cont.)					
Caro State Home & Training School, Caro, Mi. (Maint.)	1971-72	Young Brothers & Daley, Inc. Lansing, Mi.	$	$	$ 11,998
Lapeer State Home & Training School, Lapeer, Mi. (Maint.)	1972	Young Brothers & Daley, Inc. Lansing, Mi.			4,721
Clinton Valley Center (Dept. of Mental Health) Pontiac, Mi. (Maint.)	1969	Commercial Hardware, Inc. Detroit, Mi.			1,608
Clinton Valley Center (Maint.)	1973	Morley Brothers Saginaw, Mi.			1,680
Clinton Valley Center (Maint.)	1974	Bond Supply Company Kalamazoo, Mi.			2,016
Hawthorne Center (Dept. of Mental Health) Northville, Mi. (Maint.)	1973	B & H Hardware Birmingham, Mi.			2,105
Kalamazoo State Hospital (Dept. of Mental Health) Kalamazoo, Mi. (Maint.)	1969	Bond Supply Company Kalamazoo, Mi.			1,339
Northville State Hospital (Dept. of Mental Health) Northville, Mi. (Maint.)	1971-73	C.A. Ritchey & Co. Southfield, Mi.			7,846

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Management and Budget, Lansing, Mi. (cont.)					
Oakdale Center for Developmental Disabilities (Dept. of Mental Health) Lapeer, Mi. (Maint.)	1973	Ittner-Wieclmann Co. Saginaw, Mi.	$	$	$ 2,099
Plymouth State Home & Training School (Dept. of Mental Health) Northville, Mi. (Maint.)	1968	C.A. Ritchey, Inc. Southfield, Mi.			4,108
Ypsilanti State Hospital (Dept. of Mental Health) Ypsilanti, Mi. (Maint.)	1968	John H. Freeman Company Detroit, Mi.			9,494
Maintenance	1969-1972	Commercial Hardware, Inc. Detroit, Mi.			42,173
Maintenance	1973	A.T. Jones and Sons, Inc. Detroit, Mi.			8,590
Maintenance	1973-74	Commercial Hardware Company Detroit, Mi.			4,095
Maintenance	1974	Morley Brothers Saginaw, Mi.			1,550
Maintenance	1974	Commercial Hardware Company Detroit, Mi.			8,473

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Mental Health Lansing, Mi.					
Center for Human Development Mt. Pleasant, Mi.					
Custodial Buildings A & B	1954-56	Detroit Sterling Hardware Co. Detroit, Mi.	$	$ 616,720	$ 7,250
Power House	1955-57			259,192	
Laundry Building	1955-57	Morley Brothers Saginaw, Mi.		121,183	
Custodial Buildings C, D, E and F	1956-57	Nelson Builders Hardware & Supply Bay City, Mi.		1,409,716	
Service Building	1956-58	S.A. Morman & Co. Grand Rapids, Mi.		374,800	
Nursery Building	1958-59			622,508	
Hospital-Administration Building	1961-62	C.A. Ritchey, Inc. Detroit, Mi.		795,973	16,500
Unit for Toddlers	1966-68	Rapid Hardware Company Grand Rapids, Mi.		1,042,786	
Maintenance Garage Facility	1967-68			171,500	1,000
Dayroom Cottages 10, 11 & 12 - Add'ns	1967-68			50,078 (#10 only)	

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE FURNISHED BY	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Mental Health Lansing, Mi. (cont.)					
Center for Human Development Mt. Pleasant, Mi. (cont.)					
Existing Buildings - Remodeling	1973-Present	Ittner Wiedmann Co. Saginaw, Mi.	$	$ 474,511	$
Clinton Valley Center (formerly Pontiac State Hospital) Pontiac, Mi.					
Nurses Home	1952	John H. Freeman Hardware Co. Detroit, Mi.		320,606	7,500
Staff Building	1952	John H. Freeman Hardware Co. Detroit, Mi.		213,838	4,000
Childrens Unit	1966-68	Detroit Sterling Hardware Co. Detroit, Mi.		1,035,000	18,970
Power Plant Rehabilitation	1966-68			221,967	817
Service Building	1969-70	Tupper Associates Farmington, Mi.		1,405,896	11,800
Coldwater Community Health Center, Coldwater, Mi.					
Hospital Remodeling & Add'n	1953	Grand Rapids Soresa Company, Inc. Grand Rapids, Mi.			1,256

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Mental Health Lansing. Mi. (cont.)					
Coldwater State Home & Training School, Coldwater, Mi.					
Physicians Residences	1950-51				
Nursery Building #29	1950-52	Milwaukee Stamping Co. Milwaukee, Wis.	$	$	$
Detention Buildings # 19 and 27	1950-52		420,000		
Farm Colony Building #23	1951-52				
New Administration Bldg. #67	1951-54				
Physically Handicapped Building #45	1953				
Hospital Building #48	1954-56	Niedringhaus Metal Products Co.		913,884	19,742
Maintenance Shop & Garage Building #70	1955				
Vocational Training Unit - Building #50	1956-57	Bond Supply Company Kalamazoo, Mi.		220,873	6,500
Custodial Buildings # 5 and 6	1956-57	Bond Supply Co. Kalamazoo, Mi.		1,200,480	15,042

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Mental Health Lansing, Mi. (cont.)					
Coldwater State Home & Training School, Coldwater, Mi. (cont.)					
Laundry Building #71	1956-57	John Freeman Hardware Co. Detroit, Mi.	$	$ 149,900	$ 2,800 (Incl. Doors and Frames)
Single Residence #87	1957				
Four Exit Doors - Fire Protection Project - Nursery Building #29	1958			1,635	
Fireproof Stairways - Fire Protection Project - Buildings 42 and 43	1957-58			44,400	800
Park Toilets - Building #73	1962	Bond Supply Co. Kalamazoo, Mi.			
Nursery Building #29 Add'ns	1962-63			32,645	250
Fire Escape and Doors - Fire Protection Project - Building #21	1964			8,860	559

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Mental Health Lansing, Mi. (cont.)					
Coldwater State Home & Training School, Coldwater, Mi. (cont.)					
Exterior Fire Exit Stairs - Fire Protection Projects - Buildings 42 and 43	1966-67		$	$	$
Administration Building #67 - Add'n	1967-68	Bond Supply Co. Battle Creek, Mi.		240,018	2,000
Fire Exit Stairs - Fire Protection Project - Buildings 42 and 43	1967-68	Bond Supply Co. Kalamazoo, Mi.			
Various Cottages - Maintenance	1969-70			8,256	
Fire Protection Project - Building 48	1970	Southwest Sterling Supply Co. Kalamazoo, Mi.		83,574	2,[illegible]
Various Buildings - Special Maintenance	1970	Bond Supply Company Kalamazoo, Mi.		8,000	2,003
Fire Protection Project - Doors, Glass, Tile, etc. - Buildings 42 and 43	1971	Southwest Sterling Supply Co. Kalamazoo, Mi.		47,180	890
Power Plant #61 - Remodel	1972-Present	Bond Supply Company Kalamazoo, Mi.		649,827	1,327

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Mental Health Lansing, Mi. (cont.)					
Coldwater State Home & Training School, Coldwater, Mi. (cont.)					
Medicaid Phase II - Buildings 29 and 48 - Remodeling and Add'n	1973-75		$	$ 298,723	$
Forensic Center Ann Arbor, Mi.					
Buildings C-6-2 & C-6-3 - Remodeling	1974-75	Detroit Door & Hardware Co. Madison Heights, Mi.		633,000	6,000

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Mental Health Lansing, Mi. (cont.)					
Hawthorn Center Northville, Mi.					
Research Building - Laboratory Add'n	1961-62		$	$ 85,553	$ 2,600
Day School and 2-Story Add'n	1965			434,000	9,300
Mental Facility - "E" Bldg. - Remodeling and Repairs	1965-66			22,877	490
Mental Facility - "F" Bldg. - Rehabilitation	1969-70			49,650	400
Research Addition	1969			79,715	1,150
Main Building Addition	1968-69			122 594	1,750

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Mental Health Lansing, Mi. (cont.)					
Ionia State Hospital (Riverside Center) Ionia, Mi.					
Mens Building	1962-63	Contractors Hardware Co. Detroit, Mi.	$	$ 800,506	$ 15,750
Administration Building	1965-67	Contractors Hardware Co. Detroit, Mi.		371,749	7,720
Stores--Warehouse	1970	S. A. Morman & Co. Grand Rapids, Mi.		261,384	1,700
Lafayette Clinic Detroit, Mi.					
Neuropsychiatric Institute	1953-55	Detroit Sterling Hardware Co. Detroit, Mi.		1,994,779	18,487
Neuropsychiatric Institute - Alterations	1956-57	Charles Holmes Hardware Co. Detroit, Mi.		84,995	730
Clinic - Add'n	1965-68	Commercial Hardware, Inc. Detroit, Mi.		1,962,800	12,700
Fire Protection Project	1973-75	Gervais & Associates Livonia, Mi.		231,752	5,500

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Mental Health Lansing, Mi. (cont.)					
Muskegon Developmental Center Muskegon, Mi.					
Muskegon Mental Health Center	1966-68	Architectural Hardware Co. Muskegon, Mi.	$	$ 2,107,958	$ 35,560
Muskegon Developmental Center - 200-Bed Add'n	1975	Architectural Hardware Co. Muskegon, Mi.		1,899,880	46,000
Newberry State Hospital Newberry, Mi.					
Patient Residence - Remodel Cottage R	1952				
Infirmary & Nursery Building - Patient Treatment and Residence	1953				
School, Shop and Recreation Building	1954-55				
Detention Buildings	1956-57			348,000	5,500
Patient Residence - Remodel Cottage B	1956-57			145,426	4,100

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Mental Health Lansing, Mi. (cont.)					
Newberry State Hospital Newberry, Mi. (cont.)					
Laundry	1964-65		$	$ 122,000	$ 1,400
Patient Residence - Remodel Cottage D	1964-65	Contractors Hardware Co.		196,369	3,840
Ferguson Hospital - Fire Protection Project	1970-71	LaForce Hardware & Mfg. Green Bay, Wis.		35,286	5,997
Patient Residence - Remodel Cottage E					
Patient Residence - Remodel Cottage F					
Patient Residence - Remodel Cottage Q					
Northville Residential Training Center, Northville, Mi.					
Installation of new lock system in newly organized institution	1973-74	C.A. Ritchey & Company Southfield, Mi.			2,904

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Mental Health Lansing, Mi. (cont.)					
Oakdale Center for Developmental Disabilities, Lapeer, Mi.					
Maintenance	1971	Young Brothers & Daley Lansing, Mi.	$	$	$ 1,537
Maintenance	1971	[illegible] Co. Flint, Mi.			2,161
Maintenance	1972	[illegible] Company Lansing			365
Maintenance	1972	Young Brothers & Daley Lansing, Mi.			4,722
Maintenance	1973	Young Brothers & Daley Lansing, Mi.			4,188
Plymouth Center For Human Development, Northville, Mi.					
Hospital Administration Building	1960			1,343,965	
Heating Plant	1960			172,900	
Single Residence	1961			26,308	2,400
Infirmary Building	1962	Russell Hardware Co. Birmingham, Mi.		583,600	8,400

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Mental Health Lansing, Mi. (cont.)					
Plymouth Center For Human Development, Northville, Mi. (cont.)					
Custodial Building #1	1961	Russell Hardware Co. Birmingham, Mi.	$	$ 637,700	$ 11,000
Custodial Building #2	1963	Russell Hardware Co. Birmingham, Mi.		647,400	12,500
Stores & Food Service Building	1963			304,000	2,500
Building for Toddlers	1966			646,500	13,400
Building for the Blind	1966			547,429	11,610
Maintenance Building and Garage	1966	Detroit Sterling Hardware Co. Detroit, Mi.		140,239	1,000
Out-Patient Wing	1966	Detroit Sterling Hardware Co. Detroit, Mi.		236,900	2,700
Motor Handicapped Building	1967			584,000	10,200
Remodel Cottage 18	1965			38,690	754
Dental Clinic - Remodeling	1966			28,500	847
Convert Dairy Barn to Storage	1966			11,614	

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Mental Health Lansing, Mi. (cont.)					
Plymouth Center For Human Development, Northville, Mi. (cont.)					
Habilitation Unit	1967	Detroit Sterling Hardware Co. Detroit, Mi.	$	$ 641,807	$ 11,600
Storage Rooms - Renovation	1968			7,752	
Recreation & Activities Building	1969	Commercial Hardware, Inc. Detroit, Mi.		531,454	6,250
Classrooms & Manual Skills	1972	Russell Hardware Co. Birmingham, Mi.		83,026	1,600
Superintendent's Residence - Replace Fire Damage	1975			24,960	
Traverse City State Hospital Traverse City, Mi.					
Cold Storage - Service Building	1951-1952			[illegible]	
Tuberculosis Hospital	1952-53			675,563	
Laundry Building	1955-56			187,849	

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Mental Health Lansing, Mi.					
Traverse City State Hospital Traverse City, Mi. (cont.)					
Administration Building	1956-57		$	$ 397,804	$
Central Section Building #50	1960-63			296,410	
Children's Unit (including Remodeling Cottages 32 and 36)	1967-69	Meyers Hardware Grand Rapids, Mi.		1,724,428	
Ypsilanti State Hospital Ypsilanti, Mi.					
Administration Building - Remodeling	1953	John H. Freeman Co. Detroit, Mi.		308,569	
Chapel	1954-55	Ridgeway Contractor's Hardware, Inc. Detroit, Mi.		118,395	
Auditorium	1956-57	John H. Freeman Co. Detroit, Mi.		224,019	
Shop and Garage	1957			119,188	
York Woods Center	1963-64			734,444	

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Mental Health Lansing, Mi. (cont.)					
Ypsilanti State Hospital Ypsilanti, Mi.					
Power House	1968		$	$ 301,623	$
731A Special Maintenance - New Keying Systems	1970-75	Bond Supply Co. Kalamazoo, Mi.			11,333
" " "	1970-75	Commercial Hardware Company, Inc. Detroit, Mi.			53,077
" " "	1970-75	Construction Products Saginaw, Mi.			163
" " "	1970-75	A.T. Jones & Son, Inc. Detroit, Mi.			476
" " "	1970-75	Morley Brothers Saginaw, Mi.			4,345

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Military Affairs Lansing, Mi.					
Alma Armory Alma, Mi.	1952-54	Morley Brothers Saginaw, Mi.	$	$ 136,551	$
Cadillac Armory Cadillac, Mi.	1954-55	J. P. Burroughs & Son, Inc. Flint, Mi.		157,816	1,600
Marquette Armory Marquette, Mi.	1955-56	Contractors Hardware Co. Detroit, Mi.		232,558	2,688
Iron River Armory Iron River, Mi.	1956-57	Northland Hardware Co. Green Bay, Wis.		323,485	2,850
Detroit Light Guard Armory Detroit, Mi.	1956-57	John H. Freeman Detroit, Mi.		1,544,345	
Baraga Armory Baraga, Mi.	1956-57	Lund Hardware & Supply Menominee, Mi.		243,919	1,700 (incl. rough)
Sault Ste. Marie Armory Sault Ste. Marie, Mi.	1959-60	S.A. Morman & Company Grand Rapids, Mi.		404,247	3,008
Lansing Headquarters Lansing, Mi.	1963-64	Builder's Hardware Co. East Lansing, Mi.		1,081,888	7,000
Grand Valley Armory Grand Rapids, Mi.	1964-65	Meyers Hardware Co. Grand Rapids, Mi.		865,107	14,560

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Military Affairs Lansing, Mi. (cont.)					
Greenville Armory Greenville, Mi.	1964-65	S.A. Norman & Company Grand Rapids, Mi.	$	$ 288,815	$ 3,460
Port Huron Armory Port Huron, Mi.	1970-71	Detroit Sterling Hardware Co. Detroit, Mi.		300,166	2,730
Manistique Armory Manistique, Mi.	1971-72	LaForce Hardware & Mfg. Green Bay, Wis.		375,352	3,410
Pontiac Armory Pontiac, Mi.	1972-73	Russell Hardware Company Birmingham, Mi.		433,700	4,275
Lapeer Armory Lapeer, Mi.	1974-Present	Knoblock Hardware Company, Inc. Flint, Mi.		473,374	4,134
Department of Natural Resources Lansing, Mi.					
Toilet-Shower Building - Higgins Lake So.	1966			35,200	440
Toilet-Shower Buildings - Tahquamenon Falls	1966			31,500	390
Two Toilet-Shower Buildings - Young	1967			60,722	750

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Natural Resources Lansing, Mi. (cont.)					
Four Conc. & Toilet Buildings - Metamora-Hadley	1967		$	$ 85,885	$ 1,060
Toilet Building #2 - Waterloo	1967			29,980	370
Toilet Building - Sterling	1967			26,696	330
Equipment Garage - Wakefield	1967			15,428	190
Toilet-Shower Buildings #1 & 2 - Brighton	1967			51,696	640
Toilet-Shower Building - Algonac	1967			30,541	380
Toilet Building - Muskallonge Lake	1967			27,000	330
Toilet Building - Holly	1967			21,900	270
Headquarters Building - Pontiac	1968			82,345	1,020

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Natural Resources Lansing, Mi. (cont.)					
Toilet Building - Straits	1968		$	$ 24,500	$ 300
Toilet Building - Rifle River	1967			36,900	460
Storage Building - Add'n - Gaylord	1968			12,000	150
Conc. & two Toilet Buildings - Pontiac Lake	1968			143,360	1,770
Toilet Building - Proud Lake	1968			28,786	360
District Headquarters Building - Imlay City	1968			109,248	1,350
Toilet-Shower Building - Sleeper	1968			37,000	460
Office Building - Add'n - Jackson	1968			43,943	540
Toilet-Shower Building - Lake Gogebic	1968			34,720	430
Field Office & Garage - Alpena	1968			49,700	610

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Natural Resources Lansing, Mi. (cont.)					
Concession Building - Yankee Springs	1968		$	$ 104,681	$ 1,300
Concession Bathhouse Bldgs. - Bald Mountain	1969			212,229	2,630
Riding Stable - Highland	1968			15,742	200
Toilet-Shower Building - Cheboygan	1968			45,585	560
Contact Staton & Toilet Bldgs. - Holland	1969			74,700	920
Concession Building - Warren Dunes	1969			167,000	2,070
Toilet-Shower Building - Pte. Mouillee	1969			27,996	350
Toilet Building #2 - Straits	1969			30,240	370
Toilet-Shower Building - Muskegon	1969			31,740	390
Toilet Building - Sterling	1969			32,474	400

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Natural Resources Lansing, Mi. (cont.)					
Entrance & Toilet Building - Hoffmaster	1969		$	$ 67,590	$ 840
Garage & Shop - Imlay City	1969			28,800	360
Toilet-Shower Building - Petoskey	1969			34,859	430
, Shop & Entrance ...ings - Warren Dunes	1970			66,845	530
Concession & Entrance Building - Holly	1970			114,185	1,410
Garage & Shop - Newberry	1970			43,000	530
Office Building - Yankee Springs	1970			50,513	630
Toilet Building - N. Higgins Lake	1970			33,594	420
Two Toilet Buildings - Waterloo	1970			77,777	960
Garage, Office & Shop - Grand Haven	1970			31,733	390

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Natural Resources Lansing, Mi. (cont.)					
Garage, Office and Shop - Cambridge	1970		$	$ 29,400	$ 360
Toilet-Shower Building - Orchard Beach	1970			30,654	450
Bathhouse Conc. Building - Ortonville	1970			70,500	870
Activities Building - Proud Lake	1971			119,937	1,480
Office Building - Crystal Falls	1970			104,900	1,300
Maint. Building Shelter - Marquette	1971			80,700	1,000
Two Toilet-Shower Buildings Hoffmaster	1971			61,690	760
Concession Building - Pinckney	1971			108,170	1,340
Campground Store - Ludington	1971			25,397	310
Beachhouse A & C - Warren Dunes	1971			316,800	3,920

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Natural Resources Lansing, Mi. (cont.)					
Office/Garage - Jackson	1971		$	$ 43,256	$ 540
Toilet-Shower Building - Mitchell	1971			29,885	370
Maint. & Sor. Building - Marquette	1971			99,675	1,230
Beachhouse - McLain	1972			69,800	860
Regional Office - Arch. - Roscommon	1972			134,000	1,660
Ent. and two Toilet Bldgs. - Van Buren	1972			82,400	1,020
Toilet Building - Ionia R.A.	1972			16,831	210
Toilet Building - Brimley	1972			35,875	440
Forestry Equipment Bulding - Platte River	1972			11,500	140
Visitor Center - Fayette	1972			85,749	1,060

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michgian State Agencies (cont):					
Department of Natural Resources Lansing, Mi. (cont.)					
Beachhouse - W.J. Hayes	1972		$	$ 110,000	$ 1,360
Phase III Construction - Platte River	1972			1,272,184	15,750
Beachhouse, Ent. & Toilet Bldgs. - Lakeport	1972			242,800	3,000
Garage Addition - Imlay City	1972			32,560	400
Two Toilet Buildings - Clear Lake	1972			71,736	890
Pheasant Rearing Facility - Dansville	1972			203,722	2,520
Regional Office - Arch. - Marquette	1973			177,750	2,200
Beachhouse - Mears	1973			79,800	990
Beachhouse - Brighton	1973			62,900	780
Toilet-Shower Building - S. Higgins Lake	1973			52,984	500

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Natural Resources Lansing, Mi. (cont.)					
Toilet Building - Pinckney	1973		$	$ 45,700	$ 750
Toilet & Entrance Building - Indian Lake	1974			59,780	1,000
Toilet-Shower Bldg. - Burt Lake	1973			47,800	300
Beachhouse & Toilet - Powers Lake	1974			79,200	400
Shooting Facilities - Pte. Mouillee	1974			35,870	440
Toilet Building - Rifle River	1974			51,800	1,000
Garage Addition - Plainwell	1974			9,992	120
Toilet Building - Waterloo	1974			45,957	416
Beachhouse - Brighton	1974			136,888	1,950
Beachhouse - Hoffmaster	1974			150,506	1,860

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Natural Resources Lansing, Mi. (cont.)					
Beachhouse - Yankee Springs	1974		$	$ 138,250	$ 1,710
Beachhouse - Petoskey	1975			112,000	1,400
Two Toilet-Shower Buildings - Bewabic	1975			122,767	3,040
Pheasant Rearing Buildings - Dansville	1975			499,500	3,300
Office Storage Building - Norway Field	1975			25,570	320
Beachhouse - Van Riper	1975			95,000	1,200
Bathhouse, Concession, and Shelter - Seven Lakes	1975			516,000	6,390
Toilet-Shower Building - Muskallonge Lake	1975			57,910	1,400
Toilet-Shower Building - Straits	1975			59,000	1,400
Toilet-Shower Building & Mess Hall - Sleeper	1975			196,500	1,800

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Natural Resources Lansing, Mi. (cont.)					
Interpretive Center - Waterloo	1975		$	$ 166,237	$ 2,548
Nature Center - Proud Lake	1975			65,758	450

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PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Social Services					
Arbor Heights Center Ann Arbor, Mi.					
Protection Screens, Door Remodeling and Floor Work	1969		$	$ 11,890	$
Interior Remodeling	1972			10,394	
W. J. Maxey School Whitmore Lake, Mi.					
Green Oak Center - Security Unit	1958-60	Ranger Associates Detroit, Mi.		797,380	13,200
Reception and Infirmary Bldg.- Training School Complex	1961-62	Ranger Associates Detroit, Mi.		751,891	13,897
Cottage Unit "A" and Academic Unit - Add'n to Complex	1963-64	Russell Hardware Birmingham, Mi.		1,586,741	31,000
Service Building - Add'n to Complex	1963-64	Russell Hardware Birmingham, Mi.		160,000	2,700
Boiler Plant - Add'n to Complex	1964	Russell Hardware Birmingham, Mi.		8,640	500
Cottage Unit "B" - Add'n to Complex	1964-65	Russell Hardware Birmingham, Mi.		789,250	17,000
Cottage Unit "C" - Add'n to Complex	1965-66	Russell Hardware Birmingham, Mi.		830,535	17,700

745A

PROJECT NAME AND ADDRESS	DATE OF CONSTRUCTION	FINISH HARDWARE SUPPLIER	COST OF ALL CONSTRUCTION	COST OF GENERAL WORK	COST OF FINISH HARDWARE
Michigan State Agencies (cont.):					
Department of Social Services (cont.)					
W. J. Maxey School Whitmore Lake, Mi. (cont.)					
Chapel - Add'n to Complex	1967	Russell Hardware Birmingham, Mi.	$	$ 160,046	$ 2,803
Maintenance Building - Add'n to Complex	1965-66	Russell Hardware Birmingham, Mi.		234,398	4,255
Physical Education Bldg. - Add'n to Complex	1965-67	Contractor's Hardware Detroit, Mi.		581,128	5,900

746A

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN RE:	
MASTER KEY ANTITRUST LITIGATION	M.D.L. DOCKET NO. 45

REPLY MEMORANDUM IN SUPPORT OF MOTION
TO SEPARATE LIABILITY AND DAMAGE ISSUES

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN RE:	
MASTER KEY ANTITRUST LITIGATION	M.D.L. DOCKET NO. 45

REPLY MEMORANDUM IN SUPPORT OF MOTION
TO SEPARATE LIABILITY AND DAMAGE ISSUES

The plaintiffs have moved pursuant to Rule 42 that the pending cases be consolidated for a separate trial of liability issues and filed a memorandum in support of this motion.*/ In opposition, defendants argue that liability and damage issues should not be separated for trial because the sale of contract hardware involves many details which necessarily make each transaction unique and, therefore, each class member must provide extensive information about the nature of its purchase to show it was injured by the conspiracy. Defendants claim that "substantive standards" of the antitrust laws require plaintiffs to prove liability on a transaction-by-transaction basis.

There are two crucial fallacies in this argument:

(i) It is bottomed on a portrayal of the contract hardware industry and defendants' sales practices that does not square with the evidence.

---

*/ It is frivolous for defendants to complain that the signatures on these papers were typewritten (Defts Memo 3-5). Time does not permit liaison counsel to circulate documents for signature before filing; instead, other counsel are contacted by telephone.

(ii) It confuses the issue of impact as an element of liability with the question of amount of damages, which will vary for each class member.

In their memorandum, defendants mischaracterize the evidence that plaintiffs will offer as proof in the liability trial*/ and misconceive what plaintiffs must show to prove impact flowing from defendants' illegal agreements and conduct.

The plaintiffs intend to show (i) agreements and concerted action among defendants to raise and maintain prices of contract hardware and to eliminate price competition on masterkey jobs, and (ii) that this illegal conduct had the effect of raising prices for contract hardware above freely competitive levels. Such proof is sufficient to establish liability of defendants.

The factual contentions made by defendants in opposition to the separation of issues are repeated verbatim in connection with their motion for denial of class action certification. Their position boils down to the assertion that the facts regarding the conspiracy and its operation are so complicated that this litigation cannot be consolidated for trial and the issues of liability and damages cannot be separated without confusion; consequently, it would not be possible to manage the pending class actions.

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*/ Defendants cite to plaintiffs' earlier "Suggestions Regarding Procedures for Trial" (filed April 24, 1974), which has been superseded by the "Memorandum in Support of Motion to Separate Liability and Damage Issues" (filed November 15, 1974).

For a more appropriate perspective, these contentions should be considered in light of the evidence developed in pretrial discovery and the legal principles that govern proof of antitrust conspiracies. To this end, plaintiffs have filed a Designation of Evidence with Respect to Trial of Liability Issues (December 6, 1974) and a Memorandum of Law with Respect to the Nature and Proof of the Antitrust Violations Committed by Defendants (November 29, 1974).

A. THE CONTENTION THAT ANTITRUST CLASS ACTIONS ARE TOO COMPLEX FOR SEPARATE TRIAL OF LIABILITY AND DAMAGES HAS BEEN SOUNDLY REJECTED BY THE FEDERAL COURTS

The decision in Illinois v. Harper & Row Publishers, Inc., (Children's Books), 301 F.Supp. 484 (N.D. Ill. 1969), furnishes persuasive authority for initial trial of liability issues on a consolidated basis (as well as certification of national and state-wide class actions). The defendants attempt to characterize these class actions as being much more complex than Children's Books, which they describe as involving a horizontal price fixing conspiracy "with uniform impact" upon class members. (Defts Memo 31). The facts were to the contrary.

In Children's Books, defendants made the same contentions advanced in this case. It was argued, with supporting affidavits, that books were unique products sold in diverse ways to customers with dissimilar requirements.*/ Upon

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*/ On the basis of their self-serving descriptions of the library book industry and their sales practices, defendants persuaded Judge Kraft to hold in School (continued on p. 4)

analysis of the alleged conspiracy and its effect on class members, though, Judge Decker rejected defendants' arguments that the litigation would be too complicated to manage and, consequently, certified state-wide and national class actions.

The antitrust violations shown in Children's Books closely resemble the alleged conspiracy among defendants here to eliminate competition among themselves and their dealers so as to maintain contract hardware prices at inflated

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*/ (Footnote continued from p. 3).
District of Philadelphia v. Harper & Row Publishers, Inc., 267 F.Supp. 1001, 1004 (E.D. Pa. 1967):

> The commodity involved in this litigation (library editions of children's books) is commercially unique. Many of the children's books, either by reason of literary content, or the number and quality of the illustrations and the types of bindings, are unquestionably both educational and artistic in character. An individual volume, bound by its publisher in a distinctive way exclusively for library use, will often have different production, service and marketing problems from a like volume offered and sold to the general retail trade in an ordinary paper wrapper. Accordingly, the economic factors, among others, involved in establishing the price in such a specialized market may depend in large part upon the volume of demand, the publisher, the cost of the reading content, the illustrations and the binding.
>
> Proof of the business relations between individual plaintiffs and individual defendants will be complex and will naturally tend to vary according to the dissimilar requirements of the respective plaintiffs for children's books and their employment of differing methods of purchase, such as, by sealed bids solicited by public notice, by bids obtained by solicitation of selected suppliers, by direct purchase from the publisher or from wholesalers or jobbers. At this juncture we are persuaded that the diverse nature of the issues affecting the interests of the individual members of the alleged class and the sundry defendants predominates over any existing common questions of law and fact.

levels. Both conspiracies had "horizontal" and "vertical" aspects. Just as in this case, plaintiffs alleged in Children's Books that the publishers prevented price competition among dealers and enforced the agreement not to give discounts by refusals to sell, by threats to terminate, and by concerted action discussed at periodic meetings of sales executives.

Judge Decker determined that the single most important issue was whether the illegal conduct really occurred, noting that plaintiffs had charged a national conspiracy and would present the same facts to establish liability. "Regardless of which plaintiff presents the evidence, the same facts will establish the defendants' liability." If a conspiracy as alleged by plaintiffs were proven, "the thousands of purchasers will be able to recover from whichever publisher-wholesaler combination handled the particular titles that were bought." 301 F.Supp. at 488. Judge Decker further held that whether library books are "unique" products was a question common to the class, and reasoned as follows.

> The publishers have used the label "uniqueness" to advance two defenses, both of which apply equally to all plaintiffs.
>
> First, since individual books differ, each is unique. But, the prices for rare art works could be pegged above the competitive level.
>
> Second, if two publishers produce competing editions of a single publication such as "Huckleberry Finn," variations in the bindings, illustrations, and editing may result in distinct products that sell at varying prices. .
>
> * * *
>
> If the demand, content, and prices of individual books is indeed divergent, perhaps the defendants did not conspire to fix prices. But, the resolution of the parties' factual disputes will be accomplished at trial, not now. 301 F.Supp. 488-489.

Likewise, if defendants can persuade the jury in this case that each sale of contract hardware involves a unique mixture of products and the details of these transactions are too complex to be affected by the antitrust violations, they may escape liability. But plaintiffs must be given the opportunity to present their theory of liability and to prove that the illegal conspiracy to fix prices and eliminate competition on masterkey jobs operated to inflate contract hardware prices irrespective of the location of the purchasers and their choice of hardware or supplier.

The issues of liability and damages have been separated, over objection of defendants, in the Ampicillin Antitrust Litigation. Judge Sirica rejected the same contentions now raised by defendants with the following language:

> As has been mentioned, there are aspects of proof regarding the existence, scope and effect of the alleged violations which are common to each plaintiff in these proceedings. However, defendant Bristol-Myers Company contends that "[n]o action herein is maintainable as a class action because the liability element of injry to business or property differs from plaintiff to plaintiff and therefore any common questions of law and fact do not 'predominate' as required by Rule 23(b)(3)." Each plaintiff must show, according to Bristol, how the alleged monopolization and exclusion of manufacturing competition affected the prices which that plaintiff paid and which he claims would have been lower had the competition not been excluded. Therefore, it is argued, if the alleged violations are proven, the defendants may be liable to one plaintiff but not to another depending on whether or not defendants' conduct caused him injury, and these circumstances preclude a finding that common questions of law and fact predominate.
>
> The Court believes that Bristol's argument would be more properly considered during treatment of

> the merits of the case regarding the calculation of the amounts of damages, if any. At this preliminary juncture, it appears that the common questions of liability and the fact of damage, i.e., whether the alleged combination and conspiracy actually had the effect of generally increasing price levels throughout the market in ampicillin, are still predominant over any questions affecting only individual members of classes. Therefore, the Court concludes with the weight of authority that these common questions are appropriate for classwide resolution. In Re Ampicillin Antitrust Litigation, 55 F.R.D. 269, 275-276 (D.D.C. 1972), aff'd sub nom., Illinois v. Bristol-Myers Co., 470 F.2d 1275 (D.C. Cir..1972)(emphasis added)

In the Automobile Fleet Discount cases, Judge McGarr has recently reaffirmed his ruling that the issues of liability and damages will be separated for trial. In this respect, Judge McGarr held:

> The fact of damage and the amount of damage are, however, two distinct concepts, and the actual question before the Court is whether the two are so interwoven as to fall within the mandate of Gasoline Products Co. v. Champlin Refining Co., 283 U.S. 499, 75 L.Ed. 1188 (1930), that when the issue of damages is "so interwoven with that of liability that the former cannot be submitted to the jury independently of the latter without confusion and uncertainty, which would amount to a denial of a fair trial," the issues must be tried together. Id at 500.
>
> It appears that is not the case in the present action. A number of cases have recognized that the issue of fact of damage is severable from that of amount of damage. In Fontana Aviation, Inc. v. Beech Aircraft Corp., [432 F.2d 1080 (1970)], the Seventh Circuit recognized:
>
> > The damage question in private antitrust suits is composed of two components: the fact of damage - injury to plaintiff's business resulting from the alleged illegal conspiracy - and the amount of damages. Id at 1085.
>
> Holding that the District Court erred in failing to recognize that the plaintiff had proved the

fact of injury, although the amount of damage had not been proved, the Court reversed and remanded for a new trial on the issue of damages. Connecticut v. General Motors Corp., M.D.L. Docket No. 65 (N.D. Ill., Memorandum Opinion filed December 10, 1974).

B. THE LIABILITY OF DEFENDANTS CAN BE ESTABLISHED ON A CONSOLIDATED BASIS.

The defendants argue that each class member's purchase of contract hardware involves a myriad of different circumstances, and therefore its injury depends on how these factors might have affected competition even without the conspiracy. (Defts Memo 22-23). Putting to one side their possible irrelevance as a matter of law,*/ these matters

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*/ The variation in "procurement practices" of governmental entities (Defts Memo 13) offers no defense with respect to damages, much less liability. In Ohio Valley Electric Corp. v. General Electric Co., 244 F. Supp. 914 (S.D.N.Y. 1965), defendants contended that the chief buyer for a major plaintiff was an excellent negotiator who obtained large discounts on the generators themselves and who also induced General Electric to reduce its price for spare parts by $630,000 and Westinghouse to reduce its price for spare parts by $800,000. To this contention, Judge Feinberg replied:

> There is no doubt that defendants are correct in characterizing Sporn as an unusually able negotiator. The real question is whether the negotiator, even one with the herculean abilities attributed by defendants to Sporn, could press beyond certain limits. This, of course, raises the key issues of (1) was there a conspiracy to fix prices and (2) did this conspiracy affect the prices of the OVEC and IKEC units and, if so, to what extent? 244 F.Supp. at 923.

Having concluded that there was a conspiracy and that the prices during the conspiracy were significantly higher than during a comparable period after the conspiracy, Judge Feinberg awarded substantial damages estimated on the basis of the adjusted difference between a free market price and the conspiratorial price. He gave no weight at all to plaintiff's alleged skill as a negotiator and did not reduce damages one cent due to General Electric's and Westinghouse's reduced prices on spare parts. 244 F.Supp. at 946-955.

go to the amount of damages suffered, not the issue of liability. For instance, defendants argue that "a restriction on the masterkey systems on which a distributor may bid is of much more consequence in New York City than in Boise, Idaho...." (Defts Memo 14). On its face, this argument pertains solely to the measure of damages.

The distinction between liability and amount of damages is recognized in the decisions cited by defendants, which were concerned with whether the plaintiffs were within the "target area" of the antitrust violations. These decisions involved alleged injury to competing manufacturers or distributors, not damages that purchasers suffered because the elimination of competition raised prices, such as the evidence shows in this case. Billy Baxter, Inc. v. Coca-Cola Co., 431 F.2d 183 (2d Cir. 1970); Al Barnett & Son, Inc. v. Outboard Marine Corp., 64 F.R.D. 43, 51-52 (D.Del. 1974); Atlas Building Products Co. v. Diamond Block & Gravel Co., 269 F.2d 950 (10th Cir. 1959).

The "standing" of class members to recover damages for the type of antitrust violations in this case has been settled by this Court's previous holding, reported in Master Key Antitrust Litigation, CCH Trade Cases ¶74,680 (D.Conn. 1973), and the recent decisions in the Western Liquid Asphalt Cases, 487 F.2d 191 (9th Cir. 1973), and Illinois v. Bristol-Myers Co., 470 F.2d 1276 (D.C. Cir. 1972).

1. The Law is Clear that the Liability Determination in this Case Does Not Depend upon a Transaction-by-Transaction Analysis.

To establish liability, plaintiffs must only show that the defendants agreed to raise prices, prevent discounts, and eliminate competition in the sale of contract hardware; that these illegal acts were undertaken to keep prices above competitive levels; and that defendants implemented and enforced these restraints of trade. Once proven, the conspiracy's operation makes defendants liable to all class members who were injured in the purchase of contract hardware. Chattanooga Foundry and Pipe Works v. City of Atlanta, 203 U.S. 390, 396 (1906). See Ohio Valley Electric Corp. v. General Electric Co., 244 F.Supp. 914, 933 (S.D.N.Y. 1965), wherein Judge Feinberg held:

> In other words, in a price fixing case, impact and damages are coextensive; the overcharge constitutes the plaintiff's injury (impact) as well as the measure of his damage (damages) and is the difference between the price actually paid and the price he would have paid absent the conspiracy.

As Judge McGarr reasoned at the last pretrial conference in the Automobile Fleet Discount Cases, M.D.L. Docket No. 65 (N.D. Ill.):

> If the defendants in this case were allowed to exhaust all the discovery possibilities on the degree and extent of damages, some of us would not live to see the end of this case. Therefore, the distinction I have tried to make is -- in recognition of the case authority to which you call my attention, and the other defendants call my attention -- that there can't be a conspiracy and restraint of trade to fix prices and fix discounts, such as is alleged here, without proving that it was more than an academic exercise and that something happened pursuant to it which hurt somebody. That is almost prima facie really in my mind. When you establish a conspiracy to fix prices or to agree on discounts, the fact that somebody was damaged by it requires very little proof, because it is almost of the essence of such

> a conspiracy -- if one ever existed -- that it was for the benefit of the conpsirators and to the detriment of the persons who were intended to be affected by it.
>
> Therefore, the concept of the fact of damage is an extremely narrow concept as set over against the concept of the nature and details and extent of damages. (Proceedings of January 14, 1975, Tr 11-12).

In this respect, the evidence in this case documents the fact that the whole purpose of the conspiracy was to raise prices and eliminate price competition. Defendants' own memoranda leave no doubt of their aims. As acknowledged in a memorandum circulated among Sargent's sales executives, industry-wide adherence to the policy against competition was pursued to maintain inflated prices for contract hardware:

> In this regard we cannot tolerate a Sargent distributor bidding a job specifically laid down to another manufacturer's existing masterkey, any more than we can tolerate another manufacturer's distributor bidding an existing Sargent masterkey. Such unethical bidding not only results in a depressed selling market, but produces a retaliatory market having a far reaching effect. (Gray Dep. Exh. 51, January 1964).

Russwin insisted that its distributors not interfere with an existing masterkey job:

> This not only makes good business sense but it is one of the main points of ethics of our industry and the A.S.A.H.C. For if the continuation of master key systems isn't respected by all, this would break down the economics and frankly, the making of reasonable profits for our industry.... (emphasis added) (Maher Dep. Exh. 6, March 1963)

This policy against competition is boldly set forth in Russwin and Corbin sales manuals with respect to "Breaking Master Key Systems":

> Over the long pull the deliberate breaking of any manufacturer's key system by any dealer is not a sound policy. Every manufacturer and every dealer has the same privilege and if every one pursued

this policy, master key systems as such would have no value to the dealer or to us as manufacturers. (Bauman Dep. Exhs. 79-A and B, August 1963).

The defendants' sales restrictions and the ASAHC's "code of ethics" manifested the industry-wide understanding that price competition "can become most unpleasant for all of us and no one will make any money." (Emphasis added) (Bauman Dep. Exh. 19, April 1963). Taking a Russwin dealer to task for bootlegging Corbin hardware, McCulloch explained the "ethics in our industry and ... the ethics of the American Society of Architectural Hardware Consultants": a dealer is "entitled" to masterkey jobs "without having outside competition." The sale of hardware to infringe on jobs of another manufacturer "can be a two edged sword and can be turned on you in the same manner by your Corbin competitor or let's broaden it even further, Yale, Lockwood and Sargent...." (Bauman Dep. Exh. 18, March 1963). McCulloch cautioned that interference with a masterkeyed job "just isn't right whether it's Russell & Erwin, Corbin, Sargent, Yale, etc." (Bauman Dep. Exh. 19, April 1963).

Moreover, the evidence demonstrates that the conspiracy did cause higher prices for contract hardware than would have prevailed in a freely competitive market. As set forth in the Designation of Evidence (pp. 78-84), the conspiracy inflated prices of contract hardware in several ways:

(i) Defendants met and exchanged price information to stabilize their list or book prices.

(ii) On masterkey extensions, defendants gave no price concessions, which otherwise ranged from 10 to 20%.

(iii) Dealers charged substantially higher prices on masterkey extensions and other protected jobs.

The evidence introduced to show the conspiracy's effect upon prices will be the same for all plaintiffs upon trial of the liability issues.

The injury suffered by class members -- and the damages they are entitled to recover from defendants -- may properly be calculated following the determination of liability to the class as a whole. With respect to "ascertainment of liability," Judge McGarr concluded:

> It is not necessary that every plaintiff in the case be able to demonstrate some damage; all that is necessary to ascertain -- if the plaintiffs are proceeding on the liability issue only -- is that defendants conspired, as alleged, with resultant damage to somebody. Now if that is established -- and therefore liability is established -- it becomes an absolute defense, as far as the defendants are concerned, as to an individual plaintiff that that plaintiff suffered no damage at all and, therefore, is entitled to no damages.
>
> * * *
>
> We certainly don't know the names of everybody in that class who will make claims for damages, in the event that damages are ever awarded. And I think, therefore, that you cannot take as a postulate -- even in a jury trial -- that you have to show injury to every momeber of a class -- a defined group of ascertainable individuals -- in order to predicate some finding of liability. The class, as I see it, is an amorphous group, known in the last analysis only by its definition and the individuals who are filing suits or a suit representative of it. Therefore, I think you can find injury to the defined class as a basis of liability, without necessarily finding injury to every individual member of the class. (Proceedings of January 14, 1975, Tr. 13, 17).

Just as in this case, the automobile manufacturers strenuously argued that "impact" could only be shown on a transaction-by-transaction approach, and "that the highly complex issues concerning impact, if any, of the alleged conspiracy on individual plaintiffs and class members will

predominate and, indeed, overwhelm any common issues which may be found to exist in these actions."*/

The amount of damages suffered by class members will necessarily vary. In this respect, defendants point to several instances where the conspiracy may have broken down (Defts Memo 17-19), and purchasers of contract hardware therefore not damaged. This is conceded; plaintiffs intend to use such incidents as a measure of the price difference that would have resulted from actual conpetition -- or the amount of damage. (Designation of Evidence, pp. 81-84). But the fact that the conspiracy was not 100% effective does not absolve defendants from liability. It was per se illegal for the defendants to have an "understanding and accord among them, to avoid having the general price levels disrupted." Armco Steel Corp. v. Adar County, North Dakota, 376 F.2d 212, 214 (8th Cir. 1967).

The experience in the Children's Books case also refutes the contention that liability must be established on a transaction-by-transaction, lockset-by-lockset basis. The conspiracy among publishers in Children's Books sought to eliminate the giving of discounts by distributors on sales

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*/ Memorandum of Ford Motor Company and Chrysler Corporation Concerning Discovery on the Issues of Conspiracy, Impact and the Unmanageability of the Commercial Cases, p. 18. These two defendants stressed evidence that the existence of different sales programs -- the $70 front-end payment and the guaranteed depreciation programs -- meant that "most, if not all, non-governmental fleet purchasers received larger allowances from Ford and Chrysler or their dealers than they had received prior to the alleged agreement with General Motors to reduce those payments and larger allowances than they would have received under the pre-existing programs." (p. 14).

of reinforced library editions to schools and libraries. Just as in this case, the publishers enforced the industry-wide understanding by refusalts to sell, "persuasion" and threats to terminate dealers who engaged in price competition. Under competitive conditions, distributors offered quantity discounts; the measure of damages for schools would depend upon the amount of purchases. But Judge Decker held that such damage issues would not interfere with consolidated resolution of the question whether defendants were liable to the class for their violations of the antitrust laws. In his opinion granting plaintiffs' motion to consolidate the pending state-wide class actions for trial, Judge Decker reasoned:

> A common question of law in the nine cases is defendants' liability for allegedly conspiring to fix net prices on the sale of library editions of children's books. State of Illinois v. Harper & Row Publishers, Inc., 301 F.Supp. 484, 488-489 (N.D. Ill. 1969). Defendants in each of the nine cases are alleged to have participated in industry-wide conspiracies to refuse to discount net prices. The proof necessary for plaintiff to establish the alleged conspiracies will be substantially the same or similar in each case. It is significant that the publisher-defendants in each case are the same and that, with only six exceptions, the wholesaler-defendants are the same. To require that nine separate trials be conducted would cause the parties in each case to duplicate much of the proof as to liability. Consolidation, on the other hand, would be conducive to judicial economy and expedition of litigation. See Turner v. Transportacion Maritima Mexicana S.A., 44 F.R.D. 412, 413 (E.D. Pa. 1968).
>
> Defendants argue that the jury is likely to be confused if all nine cases are consolidated for trial, thereby prejudicing defendants' cases. St. Paul Fire & Marine Ins. Co. v. King, 45 F.R.D. 519, 520 (W.D. Okla. 1968); Mays v. Liberty Mutual Ins. Co., 35 F.R.D. 234, 235 (E.D. Pa. 1964). In particular, defendants contend that a

different vertical conspiracy is alleged in each case, and that a jury will be unable to keep each conspiracy separate from the others during deliberations. However, according to the amended complaints, there was an overall horizontal conspiracy which cut across each of the cases and the alleged individual vertical conspiracies. In addition, the system of alleged price fixing was the same in all nine cases. Thus it seems only proper to try the cases together, and to the extent defendants anticipate confusion, limiting instructions will be given to the jury.

Defendants also contend that confusion is likely to result from their trying to show an absence of injury or an absence of causation in each case with evidence of individual purchasing practices used by plaintiffs and individual selling practices used by defendants. As already indicated, defendants in each case are substantially the same, hence evidence of a defendant's selling practices in one case may be relevant to all cases in which it is a party. To the extent that individual purchasing practices constitute a defense, and at this point the court expresses no indication as to the merits thereof, the jury will be instructed to confine its consideration of that evidence to only those parties involved. The spectre of prejudice as posed by the defendants is tenuous and insubstantial as compared with the solid admitted advantages to be obtained by all parties, including the defendants, in a single trial as opposed to nine separate trials. Allen v. United Mine Workers of America, 30 F.R.D. 41 (E.D. Tenn. 1962). See also, Manual for Complex and Multidistrict Litigation §5.12. Illinois v. Harper & Row Publishers, Inc., 301 F.Supp. 484 (N.D. Ill. 1969). (Memorandum Opinion filed March 23, 1971).

2. Transactional Details Sought by Defendants Would Only be Relevant to Amount of Damages.

The defendants allege that they wish to probe at trial the details of every transaction for which a class member claims damages. These details, however, go to the amount of damages to be awarded following the liability determination, as recognized in the cases cited by defendants. For instance, Vandervelde v. Put and Call Brokers and Dealers Ass'n, 344 F.Supp. 118, 145 (S.D.N.Y. 1972), holds that:

> The impact of contributing causes -- other than the effects of the antitrust violation -- on the injury for which a treble damage plaintiff seeks compensation is properly a question of the amount of damages which may be recovered.

As stressed by the Supreme Court in Zenith Radio Corp. v. Hazeltine Research, Inc., 395 U.S. 100, 114, n.9 (1969)(White, J.), the plaintiff's "burden of proving the fact of damage under §4 of the Clayton Act is satisfied by its proof of some damage flowing from the unlawful conspiracy; inquiry beyond this point goes only to the amount and not the fact of damage." (emphasis in original).

Similarly, the pass-on question relates to amount of damages, with respect to proof that plaintiffs "and not the contractors, have suffered the overcharges." In its previous ruling this Court concluded "that the governmental plaintiffs may properly maintain this action, that difficulties of proof or apportionment of damages are not indubitably insurmountable and should await trial before being resolved." In re Master Key Antitrust Litigation, CCH Trade Cases ¶74,680, at pp. 94,981 and 94,982.

The federal courts have firmly adhered to the principle that once liability has been shown, complexity or uncertainty as to the amount of damages will not preclude recovery. E.g., Story Parchment Co. v. Paterson Parchment Paper Co., 282 U.S. 555, 563 (1931); Fontana Aviation, Inc. v. Beech Aircraft Corp., 432 F.2d 1080, 1085 (7th Cir. 1970). In Eastman Kodak Co. v. Southern Photo Materials Co., 273 U.S. 359, 379 (1927), the Supreme Court held:

> "Damages are not rendered uncertain because they cannot be calculated with absolute exactness. It is sufficient if a reasonable basis of computation

> is afforded, although the result be only approximate." Furthermore, a defendant whose wrongful conduct has rendered difficult the ascertainment of the precise damages suffered by the plaintiff, is not entitled to complain that they cannot be measured with the same exactness and precision as would otherwise be possible. (pp. 64-65).

Bigelow v. RKO Radio Pictures, Inc., 327 U.S. 251, 264 (1946), reiterated the principle that:

> The jury may make a just and reasonable estimate of the damage based on relevant data, and render its verdict accordingly. In such circumstances "juries are allowed to act on probable and inferential as well as upon direct and positive proof." * * * Any other rule would enable the wrongdoer to profit by his wrongdoing at the expense of his victim. (p. 66).

C. THE EVIDENCE SHOWS THAT DEFENDANTS' ANTITRUST VIOLATIONS OPERATED TO RAISE PRICES BY THE ELIMINATION OF COMPETITION REGARDLESS OF THE IDENTITY, TYPE OR LOCATION OF CLASS MEMBERS WHO PURCHASED CONTRACT HARDWARE FOR MASTERKEY SYSTEMS

The motion for separation of issues must be considered in the context of the alleged conspiracy to eliminate competition and its effect upon prices, not upon an industry model which assumes a freely competitive market. The proof set forth in plaintiffs' Designation of Evidence (filed December 6, 1974) refutes the factual premises upon which defendants rely in arguing that proof of liability must proceed on a transaction-by-transaction basis.

Owner's Preference

Defendants argue that an owner's decision to extend a masterkey system "inherently restricts competition" and "the fact that owners elected to extend lock systems may be

the reason the distributors charged higher prices." (Defts Memo 21, 12-13). On the contrary, the evidence shows that defendants illegally agreed to eliminate competition on masterkey systems regardless of the owner's choice.

The whole purpose of the conspiracy was to prevent price competition by dealers which might cause an owner to change brands of hardware or supplier. In this respect, Edward H. McCulloch stressed in 1965 to a joint meeting of industry trade associations, the ASAHC and BSMA, that the industry-wide prohibiton against "breaking" a masterkey system was designed to protect the originating dealer (and his manufacturer) from price competition. As he explained: "The system is 'broken' when a low bid from a competitor forces the owner through economic pressure to establish a new system." (AS 1189, October 1965). To translate, "economic pressure" simply means a competitive price. Moreover, defendants prohibited their dealers from offering to extend masterkey systems by supplying the contract hardware of another manufacturer, rather than their own. For example, McCulloch advised a Russwin salesman in 1963 that it would be necessary to terminate a dealer for "unethical tactics and practically breaking a key system" because the dealer purchased Corbin hardware from someone other than the dealer to whom the masterkey "belonged." McCulloch was emphatic:

> You know our policy on this. Even though they actually haven't broken a P & F Corbin system they bid into some and this is against our policy.

(McCulloch Dep. Exh. 32, October 1963).*/

The Nature of the Specifications.

Defendants argue that different procurement practices and specifications of governmental entities for masterkey systems "pose unique questions as to the existence of any restrictive practices under such conditions and the impact of any such practices which may have existed." (Defts Memo 14). In this respect, defendants point to the fact that the State of Mississippi precluded specifications that required extensions of existing masterkey systems. A closer look at this example belies defendants' entire argument. The State of Mississippi, in fact, sought to obtain competition on masterkey work by not permitting specifications on public construction projects to read "keyed to existing system." But Russwin still insisted that "dealers protect each others masterkeys." Writing to Carl Bauman, general sales manager of Corbin, McCulloch stressed:

> It would seem to me that even though it isn't in a spec, and if people know it is a bonafide key system, they should honor each other. (McCulloch Dep. Exh. 35, April 1962).

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*/ The defendants disingenuously argue:

> To the extent that plaintiff-owners decide to extend master key systems, they are not only foreclosing any possible impact on them of any alleged conspiracy to prohibit bids on other manufacturers' systems, they are also creating a market environment in which it no longer benefits a distributor to bid on another manufacturer's system. (Defts Memo 15).

If this were true, there would have been no purpose for the well-documented conspiracy on the part of defendants and their enforcement of restraints on competiton against their dealers.

McCulloch advised Bauman that he told Russwin's southern sales manager, "I'd rather lose the job to Y & T [Yale & Towne] than to be instigator of breaking key system." (McCulloch Dep. Exh. 34, March 1962).

Moreover, defendants arranged for the submission of collusive bids to make public agencies believe they were getting competition, whatever their purchasing practices. (Designation of Evidence, pp. 70-78). These collusive bids were arranged as a "means of having the owner and architect believe they were getting competitive bids from two sources." (McCulloch Dep. Exh. 36, March 1962). For instance, Sargent arranged for complimentary bids on contract hardware for the federal courthouse in Chicago so that protected dealers would get the business "with a profit." (Rhynedance Dep. Exh. 12, November 1965).

Regional Markets.

Defendants argue that "there are several markets, there are no typical distributors, and there are a variety of conditions throughout the country." (Defts Memo 15-16). This contention ignores the evidence that the restrictions on competition were implemented by the defendants as a matter of general policy and were enforced by concerted action and other measures on dealers throughout the country. (Designation of Evidence, pp. 26-67).

For example, the sales manuals of Russwin and Corbin during the conspiratorial period stressed the industry-wide prohibition against breaking masterkey systems. In

1957, W.J. Ziegenhein, vice-president of Russwin, wrote to all salesmen asking them to make certain "that our dealers refrain from quoting" jobs with another manufacturer's masterkey system:

> You are all thoroughly familiar with our policy as it relates to efforts made to break any manufacturer's masterkey system. This is extremely bad practice not only from the moral standpoint but it can work in reverse as well and give the competitor reason to break our system. (Lichtenfels Dep. Exh. 30).

The sales manuals were distributed to all sales personnel and provided that "each supervisor will be held accountable for adherence to and strict enforcement of standard practice" with respect to "breaking masterkey systems.' Russwin further warned:

> It is now emphatically stated that it is your responsibility to stop such practices yourself, as well as to stop any dealer who is now or in the future making efforts to break the other dealer's master key system. If you are not successful in stopping the dealer, then you must report it to the sales manager for further action from New Britain [the corporate headquarters].
>
> It is your responsibility to thoroughly discuss this policy matter with every one of your dealers and be sure they completely understand this policy will be enforced. (Lichtenfels Dep. Exh. 31, August 1959). (emphasis added)

As revised in 1965 by McCulloch, the Russwin policy against breaking masterkey systems read, in part:

> It is your responsibility to always practice this policy personally and to make certain that all your distributors and their personnel are fully informed of this policy at all times. If you have reason to believe a distributor has or is attempting to violate this policy and you have clearly pointed out to him the policy, you must report

> such a situation without fail to your manager and the home office. If you don't and an investigation clearly indicates that you were aware of such a violation and took no action, this could be cause for dismissal. (Lichtenfels Dep. Exh. 32, October 1965).

Such evidence leaves no doubt that defendants enforced their illegal restraints on competition in Boise, Idaho as well as Chicago, Illinois.

The defendants assigned exclusive territories, prohibited "bootlegging" and eliminated intra-brand competition to maintain the prices of protected dealers at inflated levels. The defendants implemented and reinforced their horizontal conspiracy to protect masterkey jobs from competition by allocation of masterkey systems and territories among their own dealers. These illegal vertical agreements gave distributors complete protection on masterkey jobs in their assigned territories. Consequently, dealers accepted restraints imposed by defendants on competition and helped to enforce these restraints. See Designation of Evidence, pp. 85-107.

The supposed regional differences in sales practices of distributors made absolutely no difference to the operation of the conspiracy. The evidence shows that where an owner sought to secure competitive prices for contract hardware by the solicitation of bids from contractors outside his area, defendants would arrange for dealers in the other regions to submit collusive bids to the other general contractors. This may be illustrated by the West End Baptist Hospital incident (1964), in which Emhart's sales executives arranged for dealers in New Orleans, Houston, and Montgomery to

submit collusive bids to general contractors for a job in Birmingham, Alabama. (Wiley Dep. Exhs. 29, 30; McCulloch Dep. Exhs. 36A-B). In another incident, Russwin simply told its dealers not to bid on hardware for a public hospital where the local dealer "suspected" that the contractor who submitted the low bid "was going out of the state for an R & E hardware price." (Wiley Dep. Exh. 12).

D. THERE IS CLEAR AUTHORITY FOR THE SEPARATION OF LIABILITY AND DAMAGE ISSUES IN THE CIRCUMSTANCES OF THIS CASE

While defendants argue there is no case support for separation of issues (Defts Memo 27-34), they rely solely upon expressions of the general principle that separate trials should not be ordered where the issues of liability and damages are so "interwoven" that they cannot be independently submitted to the jury without confusion. E.g., Gasoline Products Co. v. Champlin Refining Co., 283 U.S. 494 (1931); Swofford v. B & W, Inc., 336 F.2d 406, 445 (5th Cir. 1964).*/ Their memorandum completely ignores the series of

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*/ As pointed out by the defendants, it is not entirely accurate to say that Gasoline Products approved retrial for the issue of damages alone. (Defts Memo 33-34). But Gasoline Products did recognize that the issues could be separated -- and tried by different juries -- in appropriate circumstances. While the Supreme Court refered the Court of Appeals in holding that the question of damages could not be separated from the issues arising on the counterclaim, it further held:

> Here we hold that where the requirement of a jury trial has been satisfied by a verdict according to law upon one issue of fact, that requirement does not compel a new trial of that issue even though another and separable issue must be tried again.
>
> As the issues arising upon petitioner's cause of action on the royalty contract are clearly separable from all others and the verdict as to them already given is free from error, it need not be disturbed. 283 U.S. at 489.

recent rulings, discussed by plaintiffs, that there should be separate determination of liability and damages in factual situations that closely parallel this case. E.g., Automobile Fleet Discount Cases, M.D.L. Docket No. 65 (N.D. Ill.); City of New York v. General Motors Corp., 60 F.R.D. 393, 395 (S.D.N.Y. 1973), appeal denied, 501 F.2d 639 (2d Cir. 1974); Western Liquid Asphalt Cases, 487 F.2d 191, 200 (9th Cir. 1973); Cast Iron Pipe Antitrust Cases, CA 71-516 (N.D. Ala.); Gardner v. Awards Marketing Corp., 55 F.R.D. 460, 463 (D. Utah 1972). These decisions cannot be distinguished; indeed, defendants do not even mention them.

Moreover, there is also unquestioned precedent for the submission of liability and damage issues to different juries, with possible use of a special master to calculate damages. E.g., In re New Hampshire Air Crash Disaster, 342 F.Supp. 907 (D.N.H. 1971); O'Donnell v. Watson Bros. Transportation Co., 183 F.Supp. 577, 585-586 (N.D. Ill. 1960); Terrell v. Household Good Carriers' Bureau, 494 F.2d 16 (5th Cir. 1974); Lehrman v. Gulf Oil Corp., 1974 Trade Cases ¶75,236 (5th Cir. 1974); Eastern Fireproofing Co. v. United States Gypsum Co., 50 F.R.D. 140 (D. Mass. 1970); Wright & Miller, Federal Practice and Procedure, §2391. Again defendants ignore this considerable body of authority, citing only a self-serving article by William Simon, a prominent defense counsel, and United Air Lines, Inc. v. Wiener, 286 F.2d 302, 306 (9th Cir. 1961). The Wiener decision itself recognizes that a separate jury can determine the damages "after another jury has determined the issue of liability" in appropriate circumstances.

E. THE SEPARATION OF LIABILITY AND DAMAGE ISSUES FOR TRIAL IS THE PROCEDURE THAT WILL BEST ADVANCE THE FAIR AND EFFICIENT RESOLUTION OF THIS LITIGATION.

As discussed in our opening memorandum, an initial trial of the liability issues on a consolidated basis for all pending cases would greatly conserve judicial time and resources. All plaintiffs would rely upon the same evidence. If liability were established, the case would proceed to calculation of damages. On the other hand, if defendants were found not to have violated the antitrust laws, the case would be concluded.

The same efficiency and binding effect would not be realized under the proposal of Emhart and Sargent for a complete trial of one state-wide class action, regardless of whether defendants won or lost. If, in a trial of the Illinois complaint, defendants persuaded the jury there was no industry-wide agreement but rather numerous local conspiracies to stay off masterkey jobs and submit rigged bids, that determination would not affect subsequent prosecutions by the other states. Similarly, in the event Illinois established liability, defendants would still interpose their theory of isolated illegal acts in subsequent suits by other states.*/

Moreover, as a practical matter, the several states that are plaintiffs have moved for transfer of all pending cases under Section 1404(a) to the District of Connecticut for a consolidated trial of liability. If only one state were permitted to go forward, the other states

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*/ None of the defendants have indicated they would agree to be bound by a liability determination against them in a test case.

might not agree to transfer, and depending upon the outcome of the initial trial, might insist that their cases be tried in the jurisdictions where originally filed.

The suggestion by Eaton and Ilco that trial be limited to the "horizontal" conspiracy to fix book prices has even less to commend it from a standpoint of judicial efficiency, and would unduly prejudice plaintiffs. Proof of the antitrust violations commited by defendants simply cannot be parsed in the way suggested by Eaton and Ilco.

The plaintiffs have alleged a pervasive conspiracy among defendants themselves to fix and maintain prices of contract hardware and to eliminate competition on existing masterkey systems. These understandings were implemented and reinforced with additional illegal agreements by defendants to allocate masterkey systems and territories among their dealers and to prevent the reselling (or bootlegging) of contract hardware to other dealers. These various restrictions were part and parcel of the overriding conspiracy. The enforcement of the conspiracy against dealers by defendants, in concert and alone, provides circumstantial evidence necessary to prove the "horizontal" arrangements. The issue of conspiracy must be tried as a whole, not fragmented into several components.

As stressed by the Supreme Court in Continental Ore Co. v. Union Carbide Corp., 370 U.S. 690, 699 (1962), "plaintiffs should be given the full benefit of their proof without tightly compartmentalizing the various factual components and wiping the slate clean after scrutiny of each."

What appear to be innocent acts may be "part of the sum of the acts" which comprise an illegal agreement or combination. American Tobacco Co. v. United States, 147 F.2d 93, 107 (6th Cir. 1944), aff'd, 328 U.S. 781 (1946). The unlikelihood that the prosecution can obtain very much direct evidence of the crime is "particularly true of price-fixing conspiracies...." Esco Corp. v. United States, 340 F.2d 1000, 1007 (9th Cir. 1965). "Participation in a criminal conspiracy need not be proved by direct evidence; a common purpose and plan may be inferred from a 'development and a collocation of circumstances.'" Glasser v. United States, 315 U.S. 60, 80 (1942).

These admonitions have special force in the circumstances of this case -- where defendants knew their agreements were illegal, remained cautious not to leave written evidence of their acts (Designation of Evidence, pp. 11-13), and sought to conceal their restrictions on competition from plaintiffs and class members. (Designation of Evidence, pp. 108-117).

CONCLUSION

For the reasons set forth in our opening memorandum and this reply, plaintiffs urge the Court to grant the motion to consolidate the pending cases for separate trial of liability issues.

Respectfully submitted,

DATED: January 20, 1975

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Liaison Counsel for Plaintiffs

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

IN RE:	M.D.L. Docket No. 45
MASTER KEY ANTITRUST LITIGATION	All Cases

ANSWERS TO DEFENDANTS' EXPERT WITNESS INTERROGATORIES TO ALL PLAINTIFFS

Plaintiffs, by their attorneys, hereby answer the above-captioned interrogatories. Plaintiffs expressly reserve the right to supplement and amend these answers.

1. State the name of each person whom you expect to call as an expert witness at the trial of this matter, and as to each such person, state the following:

(a) His business, occupation or profession.

(b) His title or position and the name of the concern or entity with which he is connected in such business or occupation.

(c) His educational background, giving the names of the educational institutions attended, the dates of attendance and degrees earned with dates thereof.

(d) His specialty within his profession, if any.

(e) His experience within his field, giving the dates and names of prior employers, if any; dates and names of institutions associated with, if any; and any other experience indicating dates and places.

(f) The names of all professional associations or societies with which he is related or of which he is a member, stating his status with each and the inclusive dates of such status.

(g) The title, name of publication, name of publisher, and date of publication of each article, book, etc., authored, co-authored, edited or co-edited by each such person.

(h) Whether he has ever been a witness in any other lawsuit and, if so, for each such lawsuit, give the name of the suit, the kind of suit involved, the name of the Court, the approximate date of the testimony, and the names of the parties or attorneys, for whom he gave evidence.

(i) Whether his testimony is expected to be given with respect to plaintiffs' complaints or defendants' answers.

(j) The subject matter on which he is expected to testify.

(k) The substance of the facts and opinions to which he is expected to testify at trial and a summary of the specific grounds for each such opinion.

(l) Identify each document reviewed or examined by, or submitted to, him or his representative in the course of preparing his expert testimony.

(m) Identify each document which he will use in the course of giving his expert testimony.

(n) Identify each document upon which his expert testimony relies or is based or from which such testimony is derived.

(o) Relate each document identified in sub-paragraphs (l), (m) and (n), respectively, to each fact and/or opinion and ground therefor set forth in your answer to subparagraph (k).

ANSWER

Peter Max.

(a), (b), (c), (d), (e), (f), (g), (h)

Mr. Max was born March 19, 1933 at Utica, New York. He attended public schools in New Hartford, New York and graduated cum laude from the Choate School, Wallingford, Connecticut, in 1951.

He entered Williams College, Williamstown, Massachusetts in September 1951 and graduated with a Bachelor of Arts degree in June 1955 having majored in economics as an undergraduate.

In September 1955, Mr. Max entered graduate school at Cornell University at Ithaca, New York and pursued a course of graduate study in economics. His major field of emphasis was government regulation of business and he minored in public finance and monetary theory. Mr. Max remained at Cornell for four years. Three of these were spent in formal course work and the fourth was devoted to work on his doctoral dissertation which was supported by a Ford Foundation grant. While a graduate student, Mr. Max taught courses in principles of economics and assisted Professor Alfred E. Kahn in teaching courses in government

regulation of business. Prior to leaving Cornell in 1959, Mr. Max had completed all course work and formal requirements except the completion of his doctoral dissertation for a Ph.D. degree in economics.

During the summer of 1956, and periodically thereafter, Mr. Max worked as a research assistant to Professors Alfred E. Kahn and Melvin de Chazeau, assisting them in the preparation of their book Integration and Competition in the Petroleum Industry. In the summer of 1957 and again in the summer of 1958 he was employed as an economist by the Cleveland Metropolitan Services Commission to participate in a study of the cost of government and government services in the Cleveland, Ohio metropolitan area.

In 1959, after leaving Cornell, Mr. Max joined the faculty of the Graduate School of Industrial Administration at Carnegie Institute of Technology (now Carnegie-Mellon Institute), in Pittsburgh, Pennsylvania. In that capacity, he taught undergraduate courses in the principles of economics and advanced undergraduate courses in government regulation.

While at Carnegie Tech, Mr. Max also served as economist on a project sponsored by the Pittsburgh Regional Planning Association. This project was a study of the economy of the Pittsburgh metropolitan area, somewhat similar to the study in which he had participated at Cleveland. Also, while at Carnegie Tech and, to a lesser degree, while at Cornell, he engaged in some consulting activities on a part-time basis. The area of his primary concern at that time was the regulation of the field price of natural gas.

In June of 1960, Mr. Max joined the economic consulting firm of Bonbright, Watkins, Jason & Co., Inc. in New York City. He remained with that firm as a Senior Consultant until 1961 when National Economic Research Associates, Inc. (NERA) was founded. While at NERA, he served again as Senior Consultant.

In August 1963, Mr. Max left NERA and became Chief of Business and Area Economics at Battelle Memorial Institute, Columbus, Ohio. He remained at Battelle until April 1965, when he rejoined NERA. At Battelle he was responsible for a broad range of economic research. He served various clients including the United States Department of State, Arms Control and Disarmament Agency; United States Department of the Interior, Bureau of Outdoor Recreation; the State of Washington; the U.S. Army Corps of Engineers, the Seattle District and separately the Detroit District; the Port of Olympia, Washington; the Port of Portland, Oregon; and various corporations including Xerox Corporation, Dow Chemical Company, Boeing Company, the Cincinnati Gas and Electric Company and others. He conducted research relating to future economic development, industrial development activities, a transportation study, and long-range corporate planning studies.

In April 1965, Mr. Max returned to NERA as a Senior Consultant, and was named Vice President in 1970.

The results of two studies in which Mr. Max participated have been published by the U.S. Government. One is a book which he co-authored entitled "The Implications of Reduced Defense Demands for the Electronics Industry." This was a study for the United States Arms Control and Disarmament Agency. The other appears as Volume 10, Appendix O, "Economic Base Study" to the Comprehensive Water Resources Study for the Grand River Basin, Michigan, published in book form by the U.S. Army Engineer District, Detroit. Mr. Max was the primary author of this book. It sets forth the results of a detailed analysis and projection of the economy of the Grand River Basin in Michigan.

Mr. Max has published an article entitled "The Economist's Role in Antitrust Damage Actions," which appeared in Public Utilities Fortnightly, December 23, 1965 and an article entitled "The Economist as an Expert Witness and Professional Consultant to Plaintiffs in Treble Damage Suits," which appeared in The Antitrust Bulletin, Volume VII, Number 2 (March-April 1962).

In the Summer 1968 issue of Antitrust Law and Economics Review, the editors reprinted the bulk of Mr. Max's direct testimony in In the Matter of Columbia Broadcasting System, Inc. (F.T.C. Docket 8512) and characterized this testimony as ". . . an invaluable 'how-to-do-it' kit for both the antitrust lawyer and the economist. . . ."

Mr. Max is a member of the American Economic Association, the American Statistical Association and the National Association of Business Economists. He is a former member of the Council and Executive Committee of this latter organization. He also is a past Chairman of the Board of The National Economists Club. In addition, he holds membership in two academic honorary societies, Phi Beta Kappa and Phi Kappa Phi.

Mr. Max's business address is 1211 Connecticut Avenue, N.W., Washington, D.C. He resides at 10509 Center Street, Fairfax, Virginia.

Mr. Max has been or is involved as a consultant in, among others, the following antitrust cases:

1. U.S. v. The Watchmakers of Switzerland Information Center, Inc.
2. Herman Schwabe, Inc. v. United Shoe Machinery Corporation.
3. International Shoe Machine Corporation v. United Shoe Machinery Corporation.
4. Haverhill Gazette Co. v. The Union Leader Corporation.
5. In the Matter of Columbia Broadcasting System, Inc., et al.
6. State of Oklahoma, ex rel. Charles E. Nesbitt, Attorney General v. Allied Materials Corp., et al.

7. Standard Industries, et al. v. The Skelly Oil Co., et al.

8. Harold E. Kohn, Trustee, et al. v. American Metal Climax, Inc., et al.

9. The Cast Iron Pipe Antitrust Cases.

10. Carlson Companies, Inc. et al. v. The Sperry and Hutchinson Company.

11. State of Illinois, et al. v. Harper & Row Publishers, Inc., et al.

12. State of Oregon v. Standard Oil Company of California, et al.

13. State of Washington, et al. v. Chevron Asphalt Co., et al.

14. State of California v. Standard Oil Co. of California, et al.

15. The State of Alaska v. Chevron Asphalt Co. of California, et al.

16. State of Arizona, etc. v. American Petrofina, Inc., et al.

17. Board of County Commissioners of the County of Custer and J.M. Petroleum, Inc., an Oklahoma Corporation, for themselves and for all others similarly situated v. Mobil Oil Company of Texas, et al.

18. U.S. v. Broadcast Music, Inc.

19. Arkansas State Highway Commission and the State of Arkansas v. Arkansas Minerals Co., et al.

20. State of Washington v. Wilson Sporting Goods Co., et al.

21. U.S. Pipe v. "Automatic" Sprinkler Corporation.

22. Ireco Chemicals, et al. v. Hercules Powder Company, Inc.

23. Essex Universal Corporation v. Herbert J. Yates.

24. Washington Gas Light Company v. Virginia Electric and Power Company.

25. Case-Swayne Co., Inc. v. Sunkist Growers, Inc.

26. Dri-Mix Products Company, Inc. v. General Foods Corporation.

27. F.T.C. v. Georgia-Pacific Corporation (Docket No. 8843).

28. Record Club of America, Inc. v. Columbia Broadcasting System, Inc. et al.

29. Record Club of America, Inc. v. Capital Records, Inc., et al.

30. The Fullerton Publishing Co. v. Freedom Newspapers, Inc.

31. U.S. v. Combustion Engineering, Inc.

32. Purex Corp., Ltd. v. The Procter & Gamble Co.

33. Denny Concrete Company, Inc. v. Missouri Portland Cement Company, et al.

34. Murray B. Marsh Company and Giffen Industries, Inc. v. Monasco Industries, Inc.

35. Kent Frizzell, ex rel. v. American Petrofina Company of Texas, et al.

36. Sedgwick County, Kansas, et al. v. American Petrofina Company of Texas, et al.

37. Vern Miller, Attorney General of the State of Kansas, for and on behalf of the Board of County Commissioners of the Counties of Allen, Anderson, et al. v. American Oil Company, et al.

38. Jack Labbee, et al. v. Wm. Wrigley, Jr. Company, et al.

39. Plekpuski v. Ralston Purina Co.

40. Sam Zapala, et al. v. Ralston Purina Co.; Jerry C. Landes, et al. v. Ralston Purina Co.; Patrick S. Nolan, et al. v. Ralston Purina Co.

41. City of San Diego v. Union Oil Company of California, et al.

42. Maricopa County v. American Petrofina Inc., et al.

43. City and County of San Francisco v. Union Oil Company of California, et al.

44. Sonoma County, California v. Standard Oil Company of California, et al.

45. Klamath County, Oregon v. Standard Oil Company of California, et al.

46. The Reynolds and Reynolds Company v. Volkswagen of America, Inc. and Volkswagen North Central Distributor, Inc.

47. U.S. v. Amsted Industries Incorporated and Glamorgan Pipe & Foundry Company.

48. Berkey Photo, Inc. v. Eastman Kodak Company.

49. U.S. v. The Black and Decker Manufacturing Company and McCulloch Corporation.

50. Cranberry Products, Inc. v. Ocean Spray Cranberries, Inc.

51. Arvin Industries, Inc. v. Maremont Corporation.

52. Ocean Labs, Inc. v. Kelco Co. and Merck & Co.

53. Pettibone Corporation v. Caterpillar Tractor Co.

54. Wheat Farmers Antitrust Actions.

55. McCook v. Standard Oil Company of California, et al.

56. U.S. v. Bristol-Myers, et al.

57. U.S. v. National Broiler Marketing Association.

58. Palmer Data Corporation d/b/a Computerminal v. Burroughs Corporation.

59. Kenneth Rapp v. Dunlop Tire and Rubber Corporation.

60. Fuchs Sugars and Syrups, Inc. and Francis J. Fragl d/b/a Lewis and Company v. Amstar Corporation.

61. Consolidated Edison Company of New York, Inc. v. Standard Oil Company of California, et al. and Long Island Lighting Company v. Standard Oil Company of California, et al.

62. Marshall Industries v. International Business Machines Corporation.

63. New Jersey v. Abbott Laboratories et al.

64. 1812 Distributing Corporation, et al. v. Utah-Idaho Sugar Company, et al.

65. International Rectifier Corp., et al. v. American Cyanamid Co., et al.

66. In the Matter of Retail Credit Company.

67. Tennessee Forging Steel Service, Inc. v. Nucor Corporation.

68. Record Club of America, Inc. v. Capital Records, Inc., et al.

69. Leslie F. English, et al. v. United Brands Company, et al.

70. Sargent-Welch Scientific Co. v. Ventron Corp.

Mr. Max has participated in, among others, the following cases not directly involving the antitrust laws:

1. Jones Brothers Bakery, Inc. v. The United States of America.

2. In the Matter of S.E.C. Rate Structure Investigation of National Securities Exchanges, File No. 4-144.

3. Willie Ray Blankenship, et al. v. W. A. (Tony) Boyle, et al.

4. State of Washington v. Reader's Digest Association, Inc.

5. Proceeding on Motion of Commission as to the Accounts, Books, Contracts, Records, Documents and Papers of Consolidated Edison Corporation of New York relating to Costs Incurred Pursuant to Contracts With Certain Corporations and Individuals and Procedures Followed in Consummating Such and Other Contracts: Electric, Gas and Steam, No. 25105.

6. In the Matter of Rulemaking Proceeding for the Establishment of a Trade Regulation Rule Relating to the Use of Deceptive Cotton Plans by Sellers in Commerce.

7. Arnold Palmer Golf Company v. Fuqua Industries, Inc.

(i), (j), (k), (l), (m), (n) and (o)

Based upon the exhibits in evidence and the trial testimony, Mr. Max will present his economic evaluation of the following industry characteristics:

1. Price, marketing and sales discussions among and between defendant manufacturers;

2. Exchange of catalogues, price information and price lists among manufacturers;

3. Manufacturers' restrictions on dealers bidding and/or selling contract hardware for use on facilities having another manufacturer's master key system;

4. Manufacturers' allocations of facilities with master key systems, territories, jobs and categories of jobs among their own dealers;

5. Manufacturers' prohibitions against dealers reselling contract hardware to other dealers and the inventory policies of manufacturers and contract hardware dealers;

6. The degree of interbrand and intrabrand competition in the sale of contract hardware for master key projects;

7. Manufacturers' efforts toward dealers to enforce pricing and sales policies;

8. The arrangement and submission of complimentary bids;

9. The nature of competition between dealers selling contract hardware for master key systems;

10. The refusal of manufacturers to supply contract hardware to their dealers;

11. Manufacturers sometimes requiring dealers to compensate so-called protected dealers for lost profits or manufacturers themselves compensating protected dealers, on master key projects;

12. The use of the threat of termination to influence dealer behavior;

13. The relationship of the ASAHC's Code of Ethics to competition in sale of contract hardware for master key systems, disciplinary proceedings and actions by the ASAHC;

14. The timing and magnitude of price changes;

15. Geographic price patterns;

16. Price variations between dealers;

17. Dealer mark-ups on new installations and on extensions.

From his analysis of these characteristics, Mr. Max will testify to conclusions on the following:

1. The contract hardware industry has not been characterized by free and open competition;

2. Individual manufacturers and their dealers have not behaved in the way an economist would expect if each had been acting independently, each in his own best self-interest;

3. As a result of the lack of free and open competition, prices in the contract hardware industry have exceeded the levels which would have prevailed under conditions of free and open competition;

4. Manufacturers' prices for contract hardware have exceeded the levels which would have prevailed under conditions of free and open competition;

5. Dealer markups, particularly on extensions, have exceeded the levels which would have prevailed under conditions of free and open competition;

6. Prices paid for contract hardware by the plaintiffs have exceeded the levels which they would have paid under conditions of free and open competition.

2. State the name of each expert consulted by you in connection with the present litigation but whom you do not expect or intend to call to testify, and, with respect to each such person:

(a) Provide the information requested in interrogatory 1(a)-(h).

(b) State the subject matter about which he was consulted.

(c) Identify each document reviewed or examined by, or submitted to, such person in connection with the present litigation.

OBJECTION. This information is not subject to discovery under Rule 26(b)(4)(A) or Rule 26 (b)(4)(B).

3. Identify each person with whom you have communicated, orally or in writing, or both, with regard to any matter in controversy in the present litigation and/or who has been interviewed by your representatives, with respect to any such matter; and as to each such person, state the following:

(a) His business, occupation or profession.

(b) His title or position and the name of the organization, corporation, association, sole proprietorship, form or other entity (including any plaintiff or member of any class of which any plaintiff claims to be representative) by whom he is employed or with which he is associated in such business or occupation.

(c) Identify each document relating to this litigation sent and/or received by any person named in response to interrogatory 3 and describe any written statement obtained from such person.

(d) State whether any privilege is claimed with respect to any document described above and identify the nature of any privilege claimed.

(e) As to each oral communication or interview such person, state the following:

(i) The name of each person who was present.

(ii) The date thereof.

(iii) How the communication occurred (i.e., whether face-to-face, by telephone, etc.).

(iv) Where the same occurred (i.e., if by telephone, the place from which each person involved actually participated).

(v) The substance of what each party to the conversation said.

(vi) Whether any writing exists which sets forth, summarizes, refers to, or relates to the substance of the communication; and if so, identify each such writing.

OBJECTION. This information is protected from discovery by the attorney-client privilege and work-product doctrine; it improperly invades the protected area of trial preparation.

4. State the name of each person whom you expect or intend to call as a witness at the trial of this matter, and as to each such person, state the following:

(a) His business, occupation or profession.

(b) His title or position and the name and address of the organization, corporation, sole proprietorship, association, firm or other entity (including any plaintiff or member of any class of which any plaintiff claims to be a representative) by whom he is employed or with whom he is associated in such business or occupation.

(c) Whether such person has ever been interviewed or communicated with, orally or in writing by you or by any of your representatives.

(d) If the answer to (c) is in the affirmative, identify each written communication sent and/or received by or any written statement obtained from such person.

(e) State whether any privilege is claimed with respect to any such communication or statement and identify the nature of any privilege claimed.

(f) In lieu of providing the information called for above with regard to any writing, plaintiffs may state when and where such writing will be made available for inspection and copying by defendants.

(g) If the answer to (c) is in the affirmative, provide the following information with respect to each oral communication:

(i) Identify each person who was present.

(ii) The date thereof.

(iii) How the communication occurred (i.e., whether face-to-face, by telephone, etc.).

(iv) Where the same occurred (i.e., if by telephone, the place from which each person involved actually participated).

(v) The substance of what each party to the conversation said.

(vi) Whether any writing exists which sets forth, summarizes, refers to, or relates to the substance of the communication; and if so, identify each such writing.

OBJECTION. This interrogatory is premature. Identification of trial witnesses should be required only at the time of the final prerrial order.

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